

**REVIEW OF THE REHABILITATION PROCESS OF 13 TO 16 YEAR
OLD YOUTHS IN CONFLICT WITH THE LAW, ASSESSED AT THE
MACASSAR ARREST, ASSESSMENT AND REFERRAL CENTRE**

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DECLARATION

I, the undersigned, hereby declare that the work contained in this assignment is my own original work and that I have not previously submitted it in its entirety or in part to any other university for a degree.

Signature:

Date:

ABSTRACT

South Africa has an excessively high crime rate and statistics on youths in conflict with the law are escalating at an alarming rate. Nationally and provincially structured Justice programmes for youths in conflict with the law aim to re-unite them with their families and prevent them from being detained and affiliating with hardened criminals. These programmes also aim at empowering them with the necessary life skills. The difference between the present Justice programmes and the previous ones is that the punitive aspect is being phased out and a more restorative approach is being implemented. The assessment of youths in conflict with the law is one of the programmes that was initiated and implemented in the Helderberg Substructure in 1996. The expectation was that there would be a decrease of youth experimenting with crime in the Helderberg Substructure. Despite this, the number of youths in conflict with the law has increased. However, the assessment programme has never been evaluated regarding its impact on youths in conflict with the law.

Hence the aim of this study was to evaluate the effectiveness of the Helderberg Substructure after-hours assessment programme for youths in conflict with the law.

The evaluation took the following format:

- a) A description and analysis of the key concepts of the policy that underpins the assessment programme, i.e. the Draft Child Justice Bill.
- b) A description and analysis of the actual implementation of the assessment programme.
- c) A review of case records of 74 youths, who were clients of local welfare organisations or the Department of Justice. These records were scrutinised in order to assess the progress and impact of this programme.
- d) Interviews were conducted with 74 youths that have been part of the assessment programme and whose case records fitted the inclusion criteria of the study. The aim of these interviews was to evaluate the outcome of the service rendered to youths experimenting with crime in the Helderberg Substructure.

The data was analysed quantitatively and qualitatively. The findings suggested that

approximately 81% of the youths exposed to the assessment programme had been successfully rehabilitated.

Recommendations are made in respect of the various role players regarding implementation of the restorative justice approach to youths in conflict with the law for the Helderberg Substructure.

OPSOMMING

Suid Afrika het 'n uiters hoë misdaadsyfer en statistiek toon 'n onrusbarende toename ten opsigte van jeugdiges wat met die gereg bots. Op nasionale en provinsiale vlakke het gestruktureerde Justisie-programme egter ten doel om jeugdiges wat met die gereg bots met hul gesinne te herenig, aanhouding en assosiasie met geharde misdadigers te voorkom, asook hul lewensvaardighede te verskerp. 'n Verskil tussen die huidige en vorige Justisie-programme is die klemverskuiwing van 'n strafbenadering ("punitive") na 'n restoratiewe ("restorative") benadering. Die assessering van jeugdiges wat met die gereg gebots het, is een van die programme wat in 1996 binne die Helderberg Substruktuur geïnisieer en geïmplementeer is. Die verwagting was dat dit tot 'n afname in eksperimentering met misdaad onder jeugdiges sal bydra, maar die teenoorgestelde het egter plaasgevind. Tog is die assesseringsprogram se impak ten opsigte van jeugdiges wat met die gereg gebots het, nog nie geëvalueer nie.

Gevolgtrek is hierdie studie ten doel gehad om die effektiwiteit van die Helderberg Substruktuur se assesseringsprogram vir jeugdiges wat met die gereg gebots het, te evalueer. Die evaluering het die volgende formaat aangeneem:

- a) Die beskrywing en analise van die sleutelkonsepte van die beleid wat die assesseringsprogram onderskryf soos omskryf in die: "Draft Child Justice Bill".
- b) Die beskrywing en analise van die werklike implementering van die assesseringsprogram.
- c) Hersiening van gevallerekords van 74 jeugdiges wat kliënte is van die plaaslike welsynsorganisasie of die Departement van Justisie. Hierdie rekords is bestudeer ten einde die impak en vordering van die program vas te stel.
- d) Onderhoude is met 74 jeugdiges gevoer wat aan die assesseringsprogram blootgestel is en wie se gevallerekords aan die insluitings kriteria van die studie voldoen het. Die doelstelling van hierdie onderhoude was om die impak van die diens aan jeugdiges wat met die gereg gebots het in die Helderberg Substruktuur te evalueer.

'n Kwantitatiewe en kwalitatiewe analise van die data is gedoen. Die bevindinge van die studie het 'n suksessyfer van gemiddeld 81% getoon ten opsigte van jeugdige wat na assessering geen misdaad gepleeg het nie.

Met betrekking tot die implementering van die benadering van “restoratiewe geregtigheid” is aanbevelings vir die verskeie rolspelers binne die Helderberg Substruktuur gemaak.

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DEFINITION OF TERMS

The following terms are defined according to the Draft Child Justice Bill of 2000:

1. Arrest

This act is executed by a police officer when convinced that a person/youth has committed an action that is illegal, according to the Criminal Procedure Act, Act No. 51 of 1977.

2. Assessment:

A process of evaluation, by a probation officer, of a child, the child's home or family circumstances, the nature and circumstances surrounding the alleged commission of an offence by the child and its impact upon the victim, the intention of the child to acknowledge responsibility for the alleged offence, and any other relevant circumstance or factors.

3. Child Justice Bill:

A comprehensive criminal justice system for children, which aims to protect the rights of children entrenched in the Constitution and provided for in international instruments, and to ensure an appropriate and individual response towards each child accused of committing an offence while still holding him or her accountable for his or her actions.

4. Child/Youth:

Any person under the age of eighteen years, irrespective of nationality, citizenship or other status.

5. Child/Youth at risk:

According the Minimum Standards Document (1998), it "refers to those young people who have their normal healthy development place at risk because their circumstances and/or behaviour make them vulnerable to having to live away from their community and/or family on the streets or under statutory care, OR they

may be living under statutory care”.

6. Diversion:

The referral of cases of children alleged to have committed offences away from the criminal justice system with or without conditions.

7. Diversion programme:

A programme which is intended to promote a child’s accountability and re-integration into society.

8. Offence

According to the Criminal Procedure Act of 1977, an act or omission punishable by law.

9. Probation Officer:

A person appointed under the Probation Services Act, Act No. 116 of 1991. This includes a social worker or other suitably qualified person designated as a probation officer for tasks to be carried out in terms of this Act.

10. Remands

A court hearing that cannot be finalised for some reason and needs to be postponed.

11. Requisition

The action a court takes to ensure that a person awaiting trial or who is in prison appears in court.

12. Restorative justice:

Promoting reconciliation, restitution and responsibility through the involvement of parents, family members, victims and communities.

13. Retributive justice:

Crime violates the state and its laws and punishment/sentencing should be in line, not necessarily considering those under the age of eighteen.

14. Secure care facility:

A place of safety or part of a place of safety which has been designated in terms of the Child Care Act, Act No. 74 of 1983, by the Minister of Welfare and Population Development as a facility suitable for the secure containment of children who are awaiting trial or sentencing and who have been accused of having committed serious offences.

15. Youth in conflict with the law:

Any person under the age of eighteen years who transgresses against the law.

LIST OF ACRONYMS

AARC	Arrest, Assessment and Referral Centre
ACVV	Afrikaanse Christelike Vrouevereniging
CJB	Child Justice Bill
CLC	Community Law Centre
DIS	Drug Information School
DPP	Directors of Public Prosecutors
IMC	Inter-Ministerial Committee
NICRO	National Institute for Crime Prevention and Re-integration of Offenders
PWO	Private Welfare Organisation
SABC	South African Broadcasting Corporation
SAPS	South African Police Services
SAY STOP	South African Young Sex Offenders Programme
YES	Youth Empowerment Scheme

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CHAPTER 1

INTRODUCTION

South Africa is one of the developing countries in Africa that has an excessively high crime rate per pro-rata proportion of the population. The number of youths awaiting trial in prisons has increased from 698 to 1759 (152%) during the period September 1996 to January 1999 (Muntingh, 1999:3). In response to a public outcry for preventing youths from being exposed to the criminal judicial system and imprisonment, the South African Government established an Inter-Ministerial Committee (IMC) in 1995. The committee was tasked with investigating alternative forms of handling youths at risk, including those in conflict with the law. The judicial service for youths in conflict with the law at that time (assessment by a probation officer after arrest and before court appearance) was seen as not reaching its objectives as it was not restorative and was failing to discourage youths from re-offending.

In 1994 the issue of youths awaiting trial, which is of particular interest to this study, was addressed by the Department of Social Services in the Western Cape through the establishment of the first Arrest, Assessment and Referral Centres (AARCs, in this study referred to as assessment centres). This after-hour service is rendered and co-ordinated by social workers at police stations within the Helderberg area. Probation officers from the Department of Social Services provide assessment service beyond official working hours, namely after-hours on weekdays, weekends and public holidays.

Youths are assessed by the probation officer on duty as soon as the arresting officer concludes his criminal investigation and charges the offender. During the assessment interview, depending on the severity of the offence, decisions are made on placing the youth in the custody of a parent or guardian, pending further investigation. Other options, such as detention in government controlled Places of Safety, are also considered, depending on the probation officer's recommendations.

The emphasis on diverting youths from the criminal justice system is of paramount

importance, as the punitive approach appeared to have no impact on the escalating number of youths involved in crime. The aim of the AARC was to transform the service for youths in conflict with the law from the former punitive to a restorative justice approach. This transformed approach should encourage youths to take responsibility for both their negative and positive actions.

The Helderberg Substructure Assessment Centre, formerly under the management of the Bellville District Office, represents one of the two assessment centres currently co-ordinated by Eerste River Social Services District Office. Six probation officers from the Bellville office participate in the assessment programme. The Department of Social Services is the main service provider and sponsor of the above programmes, in collaboration with the National Institute for Crime Prevention and Re-integration of Offenders (NICRO), a private welfare organisation that focuses on crime prevention.

Since the inception of the after-hour assessment programme on 1 December 1995, the number of all youths assessed in the Helderberg has increased from a total of 157 to 388, although only 32 re-offended. This increase in youth offenders has raised concerns regarding the Centres' progress and the effectivity of rehabilitation for youth offenders. Although measures had been put in place to divert youths in conflict with the law by referring them to developmental programmes, questions were raised regarding the effectiveness of these programmes because of the continuing increase in youth offenders.

The following key points describe the existing situation of the Assessment programme for youths in conflict with the law in the Helderberg Substructure:

- The government is spending a large amount of money on having social workers (probation officers) on duty after-hours to conduct assessments of youths in conflict with the law.
- Little or no significant impact is apparently being made on crime, considering the increasing number of youths habitually in conflict with the law.
- Case records reveal that youths are being increasingly exploited or abused by formal gangs, since they are viewed as being favoured or protected by the justice system.

- There is a lack of effective networking among the different departments and child and family care organisations. PWOs have limited human resources and funding, resulting in service users questioning their credibility and commitment.

A host of researchers (Morris, 1980; Midgley, 1975; Sloth-Nielsen, 1995) acknowledge the fact that the initial encounter between youths in conflict with the law and the criminal justice system can determine a youth's response to future experimentation with crime. The criminal justice approach can further determine if the youth will lapse into a cycle of even more serious criminal behaviour or distance themselves after exposure to rehabilitative interventions. Questions have been raised as to why there are still so many youths in conflict with the law despite the restorative measures that are being taken. How effective are these measures? Have these measures ever been evaluated? If not, how should it be done? The researcher is one of the probation officers involved in rendering this after-hour service and is interested in these questions being answered. The lack of progress in improving the existing situation in respect of youths in conflict with the law through an assessment programme is a matter of concern. To answer these questions the researcher aims to review the implementation of the assessment programme based on the developmental approach.

The principles of this approach will emphasise the importance of dealing with the youth in such a way. "Each human being has immense potential to be whole and to be effective within their daily living experiences within a variety of contexts. Thus the development approach is primarily about enabling people to experience themselves as whole and be competent at any given time as well as over time" (Inter-Ministerial Committee on Young People at Risk, 1996).

A descriptive survey design is considered as an appropriate methodology for such a review. Face-to-face interviews and screening of case records/documents from welfare organisations and the assessment centre will be administered by the researcher, who co-ordinates and regulates the after-hour assessment programme in the area under discussion. In the present study, the rehabilitation process of youths

assessed from 1996 up to 1999 will be reviewed.

“A forgotten generation in our prisons” further motivates this review (Cape Argus, 2002). It is argued that more than one in ten youths held are younger than 16 years old and approximately 2 000 out of 12 830 youths held in South African prisons are held in the Western Cape.

As the after-hour assessment programme had never been evaluated and crime among the youth is on the increase, the researcher, also involved in the programme, decided to do a review of the service. The researcher hopes to highlight some of the limitations of the assessment programme and provide the policy maker and service provider with an opportunity to make adjustments. This could contribute to the creation of monitoring and measuring structures, ensuring cost-effective service delivery.

As a fairly new service, the Helderberg programme may not be optimally utilised. An evaluation of the programme will assist in developing uniformity and common goals among role players, such as SAPS, Justice and social workers. Strengths and weaknesses of the programme regarding the service to youths in conflict with the law will be highlighted. This is of utmost importance in ensuring that all youth benefit from services.

This restorative approach to youths in conflict with the law is fairly new and has been implemented after long deliberation on preventing youths from being held side by side with hardened criminals. This study will assist in the evaluation of this programme and hopefully also re-affirm the significance of a programme of this nature to both Justice and Social Services Departments.

CHAPTER 2

LITERATURE REVIEW

Since 1994, there have been dramatic changes and developments with respect to the handling of youths in conflict with the law in South Africa. There is a perception, however, especially among the South African Police Services (SAPS) and victims of crime, that these changes have had very little impact. The parents and caregivers of youths also share this view to some extent.

The assessment programme is one facet that assists in supporting both youths in conflict with the law and the judicial system in developing appropriate intervention strategies. The judicial system's management of youths in conflict with the law is an issue with a long history, which has not received the necessary commitment from policy makers, thus causing youths to transgress and challenge the limits. This may be one way of viewing the problem, although the input of a healthy and stable family unit cannot be ignored (Starke in Glanz, 1994:35).

It should be noted that assessment does not suggest that youths avoid taking responsibility for their actions. Serious crimes and youths with very disruptive or uncontrollable behaviour are dealt with accordingly and youths are not necessarily put in a parent's/guardian's care. Specialist care (for substance abuse, sexual offences, etc.) is another important service that should be available alongside assessment.

The researcher aims to explore both national and international literature that affects and has contributed to the re-instatement of the assessment programme of youths in conflict with the law in South Africa.

2.1 The international perspective on juvenile justice

Acknowledgement of childhood and defining children in conflict with the law as a social problem are primarily based on a history of changes in the legal and social relations of children with the adult world. Foreign countries such as Britain, the

United States of America and the Scandinavian countries reflect the different attitudes towards juvenile justice.

The Scandinavians adopted the restorative approach (empowered with skills), while the first two countries strictly implemented the punitive approach (punishment). After Mr Blair was inaugurated as the Prime Minister of Britain he accepted the challenge for reviewing the high crime rate among the youth. This resulted in a decrease in crimes committed by youths according R. Allen, (Child Justice Project, 2003). Their police department can for instance take a decision immediately after an arrest by referring a youth to one of several specialised programmes and thus prevent further exposure to the criminal system.

As supported by Morris, Giller and Geach (1980:1) children in conflict with the law have not always been regarded as a distinct social problem. They were always regarded as having few rights for protection, earned little or no respect or independent status and were thus vulnerable to all forms of physical, emotional and economic exploitation and abuse. Until quite recently, remedial intervention in family life was fairly rare since the principle of the autonomy of the family was supported by many influential sections of society, both secular (economic) and religious.

In the nineteenth century a boy of 14 years could marry but could not dispose of his property until he was 21 years old. The law recognised only infancy and adulthood. A need to control the property interests of those legally disbarred from holding land led to the doctrine of *parens patriae* (legitimate state intervention between parents and children). This was only applicable, however, to property owners. Also, the *parens patriae* doctrine was applied to promote the welfare of a child (moral, religious and physical well being) but only partially the quality of life provided for children. Welfare in this case curtailed a father's absolute rights and on the other hand expanded the mother's right as custodian.

The Cruelty to Children Act of 1879 was introduced in the United States of America as the first measure of prevention for children who were merely regarded as the objects of intervention. Classifying the legal status of children as being dependent both on the need for protection and control, subjected children to the intervention of

the state, schools, social services and the medical profession. The doctrine of *parens patriae* allowed for social relations to be regulated.

The property/landless classes were forerunners in regarding children as a distinct social problem, causing the development of a distinct juvenile justice system to deal with juveniles in conflict with the law. The urbanisation of the property/landless classes contributed to the rapid accumulation of the labouring classes in cities, with a heightened awareness of the undisciplined mob, also referred to as the “dangerous class”. Even more alarming is the fact that the youth was considered a key part of the new social problem. Chadwick (in Morris *et al.*, 1980:4) argues that great havoc was wreaked by a “population that is young, inexperienced, ignorant, credulous, irritable, passionate and dangerous” and had “a perpetual tendency to moral as well as physical deterioration”. This argument is not far-fetched, considering that many youths state during assessment interviews that they have nothing to lose in comparison with adults who must, for example, pay bills as they are expected to be economically independent and cannot depend on the Child Care Act to safeguard them.

Up until 1833 the United States of America and Britain had the same laws and penalties, including imprisonment, hanging and flogging. These were applied to adults as well as children. Morris *et al.* (1980:3) highlight the problem by reporting on a case of a nine year old boy who received a death sentence for pushing a stick through a cracked window and pulling out some printer’s colours, valued at two pence.

The belief of policy makers in the moral degeneracy of offenders and the malleability and reformation of juvenile offenders suggested a form of intervention that was thought to be effective yet did not address the root of the problem – the foundations of the existing socio-political structure. Poverty and its symptoms were not addressed while offenders could be referred to reformatories. It was argued that “[t]he [delinquent] ... can take care of his own immediate interests. He is self-reliant, he has so long directed or misdirected his own actions and has so little trust in those about him that he submits to no control and asks for no protection. He has consequently much to unlearn – he has to be turned again into a child” (Morris *et al.*, 1980:4).

After many attempts to reduce the child's affiliation to a life of crime, it was only in 1850 that summary trials for juvenile offenders who had committed minor thefts were conducted but this remained the exception rather than the rule. The contribution of John Augustus, a shoemaker who took offenders on probation while their cases were pending, should be noted. This initiative contributed to the introduction and legislative implementation of probation, even before Augustus' death in 1869 (Midgley, Steyn & Graser, 1975:18).

Probation and institutions for juveniles (still to be discussed) were the predecessors of juvenile courts. In Britain these courts, which followed a punitive approach (punishment for any wrong conduct), were established in 1908. Probation, where social worker or probation officer would supervise the youth for a prescribed time, was a sentencing option. Another option was referring the youth to an institution.

In the United States of America juvenile courts were first established in 1899. These courts had a responsibility to intervene where children suffered from cruelty and neglect and endeavoured to combat delinquent behaviour. The law was extended to intervene in particular social conditions, for example child neglect/abuse, although the punitive principles were still upheld. Furthermore, since childhood was identified as a distinct social phenomenon, special rules, procedures and institutions for dealing with juveniles became essential. As mentioned earlier, the property/landless or poor made the classification necessary. However, the recognition of childhood was one device by which control of the property/landless class or poor was achieved. This approach was negative and derogative to their self-esteem or sense of own worth (Morris *et al.*, 1980:6).

This depersonalisation prompted statutory interference and legislation that took a keen interest in the moral upbringing of the child, but that ignored the holistic view of youths committing crime. Morris, Giller and Geach (1980) highlight the fact that poverty contributed to lower education, early school-leavers, unemployment and a lack of ambition.

A debate regarding the clear separation between the delinquent (in reformatories) and the destitute (in industrial schools) developed. An official committee investigation into the working of these institutions and the expansion of childcare in the twentieth

century and the development of preventative social work could however not support a distinction between these two. Morris *et al.*, (1980:7) responds to this lack of distinction: “Couched in the language of welfare and supported by an army of professionals, attention was continually diverted from what children do ... to what children are”. Children can be said to become an object rather than the subject of concern. This subordination of the individual right of the child to wider social problems eventually culminated in the Children and Young Persons Act of 1969. This was long overdue, since the United States of America had executed 32 Black youths aged between 15 and 19 between 1947 and 1952, and in 1944 executed a fourteen-year-old for committing murder.

During the twentieth century a move towards the restorative approach provided a challenge since the delinquent and the neglected were both subjected to a course of treatment by “helping” professionals such as social workers, teachers and psychologists. Unfortunately they mainly endeavoured to make their individual mark in court by assessing a youth’s involvement in crime from their individual discipline’s point of view and not tackling the problem in a holistic manner.

Nevertheless, the substantial changes in criminal law procedures with regard to juvenile offenders contributed to the impetus of the public’s attitude towards the status of particularly the children of the poor. Especially the middle-class philanthropists were pioneers of the present system of juvenile justice and philosophy on which the modern court is based.

Until recently, referral and assessment centres were an unexplored phenomenon in the international arena. Internationally, literature largely covers arguments for and against community crime prevention or social policy and/or the partnership approach. It is claimed that insufficient attention has been given to the processes of planning and implementing crime prevention and community safety initiatives.

The system of physical separation between adult and juvenile trials, established in the United States in 1892, cannot be compared to the Scandinavian approach to the reform process. Welfare panels were put into operation in the Scandinavian countries in terms of the 1896 Norwegian Act. These panels differ from many juvenile courts in the United States of America, which still permit the punitive legalistic approach of

view (Midgley, 1975:37-38). The Scandinavians used an alternative approach, in which welfare panels dealt with all juvenile offences in a non-judicial manner that proved to be more democratic, transparent and effective. Legal safeguards were built into the system, which made it just as functional as any juvenile justice system elsewhere, but to some extent less lenient. Juveniles with serious criminal offences were brought to the attention of the public prosecutor and welfare panels had power even to detain a juvenile, like the courts in America or Britain.

Since South Africa's system was moulded on Britain's Children and Young Persons Act of 1933 it is appropriate to follow the recognition of social workers in the British and American approach. The mechanism of the Probation Act of 1869 was only fully implemented in 1920 after pressure for reform resulted in a shift in emphasis from the formal adjudication of guilt to a full understanding of the child's special needs, circumstances and background. This enabled the social work component with its own concepts, theories and ideologies to make a significant contribution, since professional intervention made satisfactory diagnoses and early remedial action possible.

The criminal law system opposed this, but the Supreme Court had already ruled in favour of the social work approach in Pennsylvania in 1905. This meant that a child could not summarily be referred to an institution since the procedural approach differed from ordinary criminal courts.

Considering the different approaches, Midgley's (1975:23) support for the argument that the youth is important, becomes clear: "To save a child from becoming a criminal or from continuing a career of crime that ends in public punishment and disgrace, legislature surely may provide for the salvation of such a child whose parents or guardian are unable or unwilling to do so".

The two approaches, namely the Scandinavian child welfare system (restorative) and the juvenile justice system operating in Britain and the United States of America (punitive), illustrate the differences in the mindset of adults who are supposed to be the caregivers of the youth. While in the latter two countries, the juvenile justice system functioned along strict legal procedures, with the welfare element playing a definite role, the Scandinavian child welfare system introduced panels that functioned

and took decisions in terms of the juvenile's social and psychological needs. This is also the system that provides the features and principles currently endorsed in South Africa.

There seems to be an ongoing impetus for the transformation process to achieve the desired change in enabling the youth to become independent, responsible and strive towards a healthy lifestyle. Credit should also be given to individuals such as Jane Addams and Louise DeKovan Bowen who, on an international level, committed themselves to improving the lot of the less fortunate, poverty-stricken children and in so doing triggered the transformation of juvenile justice (Kratcoski, 1990:76).

2.2 The South Africa perspective on juvenile justice

In July 1996 the average period for youths awaiting trial in prison was 76 days, increasing to 138 days, or in excess of four and a half months, by July 2000. Therefore it is highly possible that a substantial number of youths currently awaiting trial in prison will celebrate their 18th birthday while in detention. It is disturbing to imagine that they are adults in the making and the potential leaders of tomorrow. At present an average of 100 youths are assessed daily during office hours and eight to 15 youths on a weekly basis, after office hours. Although this is only a slight increase from the previous year, it is nevertheless disturbing since there is a drop in the age of youths involved in crime. It also contributes to an increase in the number of those awaiting trial in holding facilities, including prisons. The future of these youths seems bleak, since they tend to become more skilful in criminal activities, which also contribute to their re-offending and committing more serious crimes. The role players dealing with youths in conflict with the law call for more diligent commitment. They need to speed-up intervention, since the Child Justice Bill is still not enacted as legislation after they adopted a Children's Charter of South Africa in June 1992 and revised it in June 1995.

Any government claiming that they apply a restorative approach towards youths in conflict with the law should bear in mind that these youths are adults in the making. Cronje, Van der Walt and Retief (1982:314) emphasise that the "basis and direction of the adult personality (babyhood, childhood and adolescence) are indisputably

determined, thus whatever is done and spent to establish that foundation and direction is the best imaginable investment society can make". However, South Africa's history unveils decades of discrimination towards voiceless youth of colour despite the inception of legislation regarding criminal law or social work.

South Africa was respectively subject to Dutch and British rule up to 1910, both applying different legislation. There was a very vague distinction between criminal behaviour (theft, robbery, etc.) and deviant behaviour (strollers, truancy from school). This caused a lack of appropriate legislation before the 19th Century Reformatory movement and the introduction of a different approach. A clear distinction between pre- and post-unionisation of South Africa is apparent and important policies/legislation from this era will be highlighted.

Under Dutch rule a Council of Justice treated children severely inhumanely in comparison with present standards. For example, one month's imprisonment or detention on a diet of bread and water was handed out for disobedience, such as refusing to attend school or church. The British colonialists were more lenient and the Masters and Servants Act of 1889 included special legislation to deal with needy children, arranging for alternative care with suitable persons. Caring for young offenders was also given attention.

The church also played a dual role, i.e. pastoral and spiritual, and took care of the destitute and orphans. By 1808 some churches established children's homes, even before the enactment of British colonial legislation. The Anglican and Dutch Reformed Churches were the first churches to set up institutions in accordance with the Child Care Act 74 of 1983 (Previous Acts 1937 & 1960). An amendment in the Masters and Servants Act of 1889 introduced the first notions of probation in South Africa, which empowered magistrates to place delinquent children with guardians as an alternative to committal or referral to a reformatory.

The Care of Neglected Children Act of 1895 was the first comprehensive piece of child welfare legislation in South Africa. The most popular organisation then was the Society for the Protection of Child Life. Presently, it has broadened its vision to all

cases concerning the welfare of the child. Porter, a reformatory in Tokai, and Standerton, a school of industries, were respectively established in 1879 and 1909.

After unionisation in 1910, the Prisons and Reformatories Act of 1911 was the Country's first legislation dealing with penal/punishable matters that included the treatment of juvenile offenders on a comprehensive basis. Gradually the distinction between the "youth offender" and the "child in need of care" found formal expression in the creation of separate judicial legislation and institutions, especially the Child Care Act of 1937.

Requirements laid down by new legislation in 1913, in the form of the Children's Protection Act, had good intentions regarding a holistic approach. Unfortunately up to 1917 the Prisons Department had the almost sole responsibility of enforcing these practices. The administration of reformatories was only transferred from the Prison Administration to the Education Department in 1934. The positive results were a separate juvenile court, where court procedures could be held *in camera* outside court rooms, with children being detained in places of safety or detention, rather than in police cells or prison. Unfortunately parents were not compelled or warned to attend court hearings, thereby causing a serious loophole that was, and still is to some extent, exploited by major role players such as police and prosecutors. This resulted in and contributed to an escalating number of children being held in detention without parents or relatives being informed.

Twelve probation officers in the service of the Department of Prisons were transferred to the Department of Education. However, following their appointment in 1917 their approach to youths in conflict with the law showed no signs of restorative justice. NICRO, a PWO originally known as the South African Prisoner's Aid, was the first to initiate and introduce various sentencing options for the juvenile offenders for which they received wide acknowledgement, especially from government (The Youth Empowerment Programme is still in effect and very appropriate for first offenders). This was done after consulting with other significant role players, such as the Departments of Social Services, Education, Justice and other private welfare organisations.

The Department of Social Services was established in 1937, the same year as the enactment of the Children's Act, and took over from the Department of Education most administrative responsibilities of the Act, including referrals to children's homes, schools of industries and reformatories.

Later changes to the system of juvenile justice led to few fundamental changes in the conditions of justice with regard to the young offender. Legislature lowered the maximum age of childhood from 19 to 18 years of age, for example. Magistrates were empowered to divert cases from criminal to children's courts when strong doubt existed whether the parents were able to care for, contain and impose discipline on their children. The juvenile offender was considered to be a different "species". The property-/landless unprivileged (black) youth hardly received this benefit. The courts would only use the option of referral to the children's court if convinced that the youths were destitute, orphaned, ill-treated or neglected. This explained the ignorance encountered by the local Inter-Ministerial Committee in 1995. Midgley's (1975:66) finding that "[t]here is an essential unity in the problem of destitution, neglect and delinquency" supports the idea that attitudes have hardly changed.

The changes that came since the implementation of the Prisons Act of 1917 resulted from lobbying and awareness campaigns by liberal groups, as well as indigenous people's claims on property and their right to have a voice. The present ruling party (the African National Congress) was one of the most successful organisations to resist the control of the Prisons Act enforced on the inhabitants of South Africa.

Progress made by having probation officers, the Children's Act of 1937, as well as a Department of Social Welfare only contributed to one aspect: the referral of child abuse cases from the criminal court to the children's juvenile court. Yet disowning people of their land and rights still contributes to a lack of permanency, housing, education, health services and employment, as argued by Morris (1980). This still caused property-/landless classes and/or poverty-stricken individuals to pursue malpractices or criminal activities while the state had to provide funds for the establishment of criminal courts. This is the very reason why the present government is still revisiting and revising policies. The assessment of youths in conflict with the law still needs to be marketed though it was written in the Criminal Procedure Act of

1977. Because of apartheid structures treating citizens in different ways, youth were treated according to their specific racial group.

Socio-economics and politics play a significant role in policy development and any government has the choice between maintaining stability and risking major upheavals as experienced in South Africa during the early 1990s. Prisons have had to cope with soaring numbers of youths awaiting trial and hardly any discharges, since their cases were penned for from one to thirty-six months, with hardly any contact with family nor any stimulation in prison.

In December 1992 the Community Law Centre (CLC) at the University of the Western Cape (UWC) responded to this need and made a valuable contribution by appointing final year law students to attend and participate in juvenile courts. Advocate Dullah Omar, then director of the CLC, convened a steering committee on juvenile justice. Advocate Ann Skelton delivered a paper on “Raising Ideas for the Juvenile Justice System” that served as the basis for a draft document "Juvenile Justice Drafting Consultancy", (1994). This draft document was then used by the IMC established in July 1995, under chairpersonship of the Deputy Minister of Welfare, Ms G Fraser-Moleketi. UWC also issued other reports and documents, such as “Letting in the Light” (1993) and “No Child Should Be Caged” (1992). These documents and the “Report of the Interim Seminar on Children in Trouble with the Law” in (Community Law Centre, 1995) enabled and encouraged the probation officer to expose malpractices, especially the lack of assessment.

2.3 A summary of the procedures regarding youths in conflict with the law up to October 1994

Up to 1994 all juvenile offenders were subjected to the following approach with regard to the juvenile justice policy in South Africa. Changes to this approach will be dealt with separately:

1. The policy was first and foremost legalistic or formal in character.
2. Consequently a juvenile charged with committing a criminal offence was charged under the Criminal Act.

3. Differentiation providing privacy, protection of identity, segregation (having a separate court) did not change the criminal procedure under point 2.
4. A youth offender over the age of 7 could be convicted depending on the seriousness of the crime.
5. A youth offender had the opportunity to be granted bail for serious crimes, such as murder or treason.
6. Sentence options indicated conventional criminal justice penalties, namely whipping, fines, imprisonment, acquittal, warning, conditional sentences (postponement/suspended sentence/placement under probation of Department of Provincial Administration, Social Services), referral to reformatory. Such sentences were supported by a probation officer's report after in-depth investigation into the child's background, family circumstances, etc.
7. Referral to children's court out of the criminal court was possible.

2.4. Outcomes of the quest for change: After April 1994

Reform of the juvenile justice policy in South Africa, considering the unjust discrimination against a voiceless, vulnerable and socially disadvantaged youth, was a dire need. The pleas of South African authors such as Cronje, Van der Walt and Retief re-iterated the cry for change in dealing with youths in conflict with the law and indicated a broad interest from different walks of life and disciplines, confirming that the quest for change was long overdue.

After the first democratic election in April 1994 there was a shift in strategies and tactics of intervention with regard to the juvenile justice system. This resulted in the Probation Services Act of 1986, amended by Act 1991. The Criminal Procedure Act of 1977 could be confidently challenged by probation officers, leaving Justice and police with the challenge to apply it to all, even the previously disadvantaged youth.

Because of statistics and problems with the escalating number of youths in custody, it was no longer a secret and reports on campaigns for their release and/or finalising of trials became a daily feature. For example a document, although it dealt with training for professional skills for those working with assaultive youth, highlighted that in

May 1995 ±2000 youth awaiting trial needed to be removed from prison (Winfield, 1996:15).

However, it was only after the first democratic election and Mr Mandela's assurance that the Reconstruction and Development Programme (RDP) acknowledged the Convention on the Rights of the Child, that youths were physically removed from prison cells.

Further recommendations that came into effect from 17 August 1994 showed the commitment to change of the Minister of Health and Welfare, who convened the IMC project in the Western Cape.

The following came into effect:

- Every youth offender in detention was to be assessed and preferably re-united with family or as a last resort, referred to places of safety.
- Assessment of youths upon arrest was to be implemented on a trial basis, starting in October 1994, in the Wynberg District, Western Province.

The project further resolved that probation officers should have an opportunity to implement assessment of youths in conflict with the law as stipulated in the well-established Section 50 (5) of the Criminal Act, Act No. 51 of 1977.

In July 1995 a Ministerial Committee on young people at risk (including the neglected, abused child), covering the nine provinces, was set up under the chairpersonship of Ms G Fraser-Moleketi, then Deputy Minister of Welfare. In this committee issues were debated in depth and a period of six months was given to lay the foundation for the transformation of the child and youth care welfare system.

Beside their philosophical approach, the established principle most applicable to this study is that of *restorative justice*. This should be the basis of transformation and should be a developmental process which:

- **encourages the resolution of conflict** by bringing young people, their family groups and communities to the assessment centre for in-depth evaluation by

probation officers, the appropriate officials to take the initiative in conducting initial and any subsequent interviews.

- **provides alternatives at every stage of the process, if appropriate.** At arrest pre-trial, and where applicable, sentencing should be conducted in such a manner that diversion becomes a central part of the system and a less severe sentence is imposed, if possible. This implies initiating new options, such as the restorative programmes and the commitment to oversee them.
- **devises and encourages methods to prevent re-offending,** keeping most young offenders out of jail by providing alternatives to minimise the need for institutionalisation in the initial stages of the process, being sufficiently flexible and ensuring cultural appropriateness.

2.5 Law reform regarding children awaiting trial since the promulgation of an embargo on youths in custody

On 8 May 1995 the first official promulgation with regard to an embargo on youths in custody was announced by the state president, Mr Mandela. This amendment to the Correctional Services Act 8 of 1959 stated that those children younger than 18 years could no longer be held in prisons or police cells while awaiting trial. They were to be released into the care of their parents or guardians, or failing that, accommodated in places of safety managed by the Department of Social Services. In 1996 a second amendment to section 29 of the Correctional Services Act was passed (Act 14 of 1996) which allowed for children to be detained in prison while awaiting trial if they were charged with certain serious offences. These offences, such as rape, assault, robbery and murder, were listed on a schedule to the Act. This legislation also permitted that children be held in prison if there was no “secure place of safety” within a reasonable distance from the court. Sections 71, 72, 74 and Chapter 9 of the Criminal Procedure Act, Act No. 51 of 1977, together with the amendment of the Correctional Services Act, placed an obligation on police to notify parents/guardians and probation officers of a child’s arrest. The Probation Services Amendment Bill

further required the mandatory assessment of each youth by a probation officer within 48 hours of being arrested. All these guidelines and requirements were to be covered in a Child Justice Bill to be designed by the different role players by 2000 to regulate treatment of youths in conflict with the law.

Assessment is defined as “a process of evaluation, by a probation officer, of a child: development, education and skills, home and family circumstances. Secondly the nature, reasons, circumstances and implications resulting in the offence, and its impact upon the victim, is considered. Acknowledgement of responsibility by the child for the alleged offence, and any other relevant circumstance or factors relating therefore is also evaluated” (South African Law Commission, 1997). Assessment, however, has its roots in the very beginning of the juvenile justice system. During 1879 the Prevention of Cruelty to Children Act came into being even when children were merely the objects of intervention. Attempts to have youths separated from adult offenders actually stem from the doctrine of *parens patriae*, partially promoting the quality of life provided for children (De Bruyn, 1995).

The Probation Service Act, No. 116 of 1998, made provision for assessment although it covered a broad spectrum and differentiated between:

- the initial assessment/screening for first offenders to determine social functioning and whether a pre-sentence report from the probation officer is necessary to guide the courts in sentencing, and
- assessment and re-assessment in a scientific and objective manner, to determine the type of assistance that should be given to an accused.

It is a continuing process with the application of scales to promote efficient treatment Manual for Probation Services, (Department of Social Development, 1994:18).

At present an amendment to the Probation Service Act applies. Social Services, however, have already been implementing assessments around the clock since 1994, supporting the drive to have an integrated decision-making process after the arrest of youths.

The Minimum Standards (Inter-Ministerial Committee, 1998), also a tool for transformation in the juvenile justice system by the year 2002 has various standard statements that need to be adhered to. First of all, youth at risk- or in conflict with the law are both exposed to circumstances and behaviour that make them vulnerable to be separated from families/community. Secondly “At the point of engagement or reception, young people at risk, are provided with care and developmental assessment services leading to a referral to the least restrictive and most empowering option for that young person”. Statements like these support that any action should have the child’s best interest at heart as stated in the Bill of Rights, (Constitution of RSA, 1996).

In July 2000 the South African Law Commission published its report on Juvenile Justice, which contains a comprehensive draft bill that deals with children accused of crimes. The draft bill is called the Child Justice Bill. The bill was tabled for discussion in Parliament in June 2002 and promulgated, thereby making assessment compulsory. This put serious pressure on the police system, which had failed the youth so dismally in the past, as highlighted by the following examples; the death in custody of a 12-year-old whose only crime was to steal sweets and a cool drink; as well as the two children painted white and silver after being suspected of shoplifting and a youngster who had died of his injuries after petrol was poured on him by a shop owner and set alight (Community Law Centre, 1993:3,122). These examples emphasize the fact that youth is often at risk and most often at the hand of their own parents/relative who physically abuse them. This is in direct contradiction to Chapter 3 of the Constitution, which emphasises a child’s basic rights, and Section 33, which lays down certain limitations qualifying limited rights, while Section 30 establishes that the interest of the child is of paramount concern. Julia Sloth-Nielsen, as a guest speaker at the Workshop for Probation Officers in Brackenfell (Community Law Centre, 1995) expresses the view that a government that disrespects or disregards the country’s constitution, has no future.

Supported by drafts and an interim national protocol for the management of children awaiting trial, the number of youths in custody and the awareness of the public has compelled the policy-makers and their subordinates to intervene as soon as possible. In the centre under discussion, records have however, indicated that there is still an

increase in the numbers of youths in conflict with the law. The degree and seriousness of crimes also tends to be on the increase (Register AARC, 1995 - 1999).

As mentioned in the introduction, this is a personalised service programme in which accountability is a serious aspect, particularly as state funding is concerned. This statement has often been made in the past six years and once again during May 2002 at the Diversion Indaba in Tokai, Western Cape, (Child Justice Project, 2002). Nevertheless, the interface between the youth and the criminal justice system and their environments has seriously been neglected. Therefore the identification of youths at risk cannot be regarded as the alpha and omega. The action/intervention needed and provided by all role players is what politicians should embrace. "An accountable personalised and humane service programme, according to the effectiveness perspective, is one that strives to maximise outcomes in relation to inputs" (Martin & Kettner, 1996:7).

This study proposes to analyse what transpires in the assessment process with the possibility of evaluating the effectiveness and success of the service provided. Progress will be measured by analysing the data (behaviour, age, crime and others indicated in Chapter 4) as well as results of youth awaiting trial and studies conducted regarding management of young offenders since promulgation of the Act in 1995.

Early intervention as part of the rehabilitation process is not necessarily the best way of addressing the problem of delinquency. "In terms of human values, personal happiness and money, prevention represents a higher goal than rehabilitation" (Stumphauzer, 1986:192). Delinquent behaviour can be unlearned and can therefore be prevented. This is regarded as very pertinent, as prevention has unfortunately not had the desired success, with the result that the problem of youths already in conflict with the law is still an issue of major concern for the South African justice system.

CHAPTER 3

METHODOLOGY

3.1 Aim

The overall aim of the study was to obtain descriptive information on the current process of managing youths in conflict with the law after his/her first offence and assessment at a specified assessment centre, over a defined period (01/01/1996-31/12/1999). This information was then analysed to assess the impact of the current assessment programme on youths in conflict with the law with the aim of evaluating the effectiveness of the assessment programme.

3.2 Objectives

3.2.1 To describe the functioning of the after-hours AARC and its impact on the District Office by reviewing:

- Policy and guidelines
- Administrative tasks
- Staff involved
- Networking/liaison with other stakeholders
- Monitoring from Head Office

3.2.2 To obtain and describe the current assessment of youths in conflict with the law by:

Documenting the current process of managing youths in conflict with the law and the functioning of the centre through:

- Listing the number of youths in conflict with the law first reported to the assessment centre during the period 01/01/1996-31/12/1999, using the (Register AARC, 1995-1999).
- Documenting the nature and seriousness of the criminal offence and repeated offences according to the Criminal Procedures Act of 1977.
- Documenting anti-social behaviour identified at the time of the first referral (drugs, alcohol, truancy, gangs, etc.).
- Documenting options utilised at the assessment and referral centre, i.e. diversion options (e.g. youth offender school) and/or supportive services (e.g. referrals to Department Family and Child Care Organisations) after first referral.
- Listing the number of repeat-offenders and associated offences in the subsequent 5-year period (01/01/1997-31/12/2001), again using the (Register AARC, 2000-2001).

3.2.3 To identify, during follow-up interviews (2001/2002), through self-/proxy reporting, reported anti-social conduct (negative outcomes) among these youths, for example:

- Drug and alcohol abuse
- Early school leaver/truancy
- Involvement in gangsterism
- In conflict with the law

3.2.4 To identify, during follow-up interviews (2001/2002) through self-/proxy reporting, positive behavioural changes (positive outcomes) in these youths, regarding:

- Regular school attendance
- Abstinence from substance abuse
- Disassociation from gang membership
- Engaging in support groups/systems

- Participation in after-school projects/activities
- Casual employment
- Participation in recreational/sporting activities

3.2.5 To make recommendations, ensuring a holistic approach to assessment of youths in conflict with the law

These recommendations would involve different stakeholders, such as the SAPS, the Department of Justice, the Department of Social Services, as well as various NGOs, e.g. Child & Family Care, Strand Gemeenskapsdienste, the ACVV and NICRO.

3.3 Research design

A retrospective, descriptive survey of participants was applied, with the emphasis on the exposure to after-hours assessment at the centre (See Figure 1). This descriptive study used both quantitative (e.g. the number of times the youth re-offended) and qualitative (e.g. the type/degree of offence) methods of data collection.

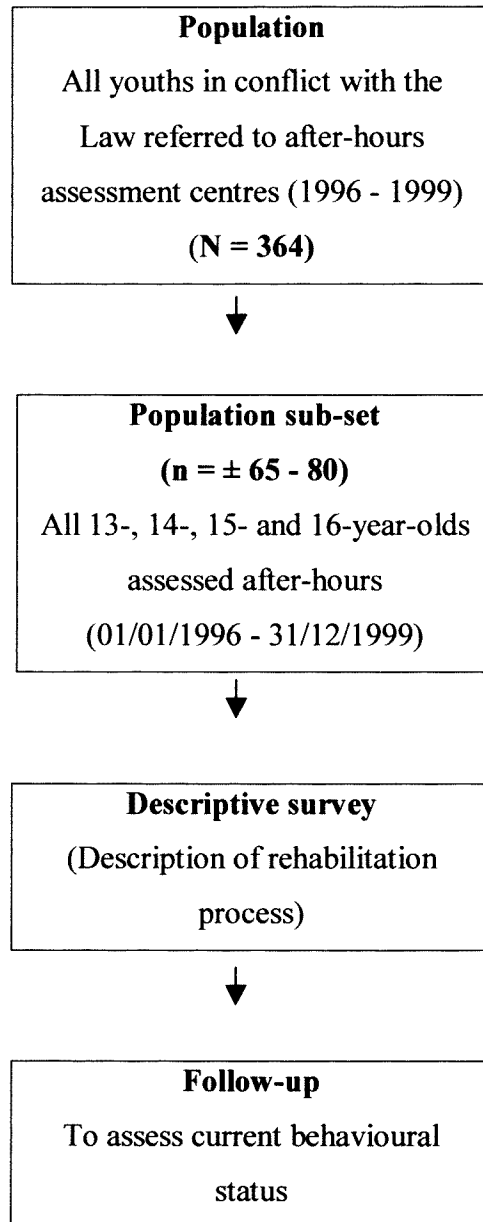


Figure 1: Schematic representation of the study structure and design

The expectations that follow from this research design are represented in the following figure.

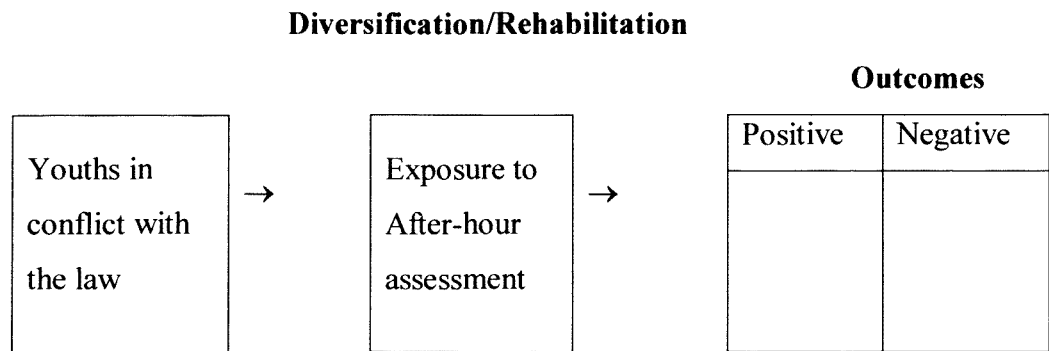


Figure 2: Diagrammatic representation of the descriptive survey

3.4 Population, sample and study area

The population consisted of all youths in conflict with the law and referred to an after-hours centre during the period 1 January 1996 to 31 December 1999 [N = 364] (Register AARC, 1995 - 1999).

The study sample consisted of all 13-, 14- 15- and 16-year-old youths arrested and charged for a variety of offences ranging from petty theft to murder and rape, referred to the Macassar Assessment Centre over a 4-year period (01/01/1996-31/12/1999). It covers referrals from four SAPS stations operating under the jurisdiction of the magisterial district of Somerset-West and Strand, namely Macassar, Somerset-West, Strand and Gordon’s Bay.

The Macassar Assessment Centre (Helderberg Substructure) was chosen because it covers a diverse area with distribution of both affluent and marginalised areas.

The period 1996 up to 1999 was selected, as these youths will be a fully representative group, considering that they still fall under the Child Care Act 74 of 1983. This implies that intervention, for example admittance to an institution, is a possibility for youths younger than 18 years of age.

Of 364 youths in conflict with the law, 137 met the inclusion criteria and 227 did not. Of these 137 youths 74 were included in the study. N=74 and can be referred to as a

sample of convenience. These 74 youths were all contacted at home or at a friend's house. All of them and/or their parents/proxy agreed to participate.

The remaining 63 youths from n=137 were excluded from the study because of the following reasons:

- The addresses of two Xhosa-speaking youths from the two informal settlements within the Somerset and Strand Magisterial Districts could not be traced.
- In the case of the only white youth the mother refused that her son participate. He was a Grade12 learner at the time.
- The remaining 71 subjects could not be traced. The Local Authority (Housing Office) could not assist as tenants in marginalised areas change addresses more easily.

3.5 Criteria for in-/exclusion

3.5.1 Inclusion

- Youths should have been 13-, 14-, 15-, or 16 years old at the time of their first referral and could be of any gender.
- Offences committed prior to 1996 and 1997 did not disqualify a youth from participating in the study.¹
- Both serious and petty offences were considered.
- The youth could be resident in any area within the Helderberg Substructure.

3.5.2 Exclusion

- Youths 17 years and older who already led an adult lifestyle and in most instances were self-sufficient and lived away from home or were temporarily employed.

¹ Prior to 1996 and the establishment of the Macassar AARC, youths in conflict with the law were processed through the criminal justice system. As the purpose of this study is to review impacts of the AARCs (established in 1996), youths who had committed offences prior to '96/97 could be included in the study.

- Youths residing outside the Helderberg Substructure, as there is no guarantee of a fixed abode to render a service, for example referral to a child - and family care organisation.
- Street children who had no fixed address or frequent shelters, which provide only short-term and not permanent accommodation.

3.6 Methods of data collection

The researcher, a qualified social worker and probation officer registered with the South African Council for Social Work (registration number 10-08350), collected all the data. She is in the employ of the Department of Social Services as Chief Social Worker and has served in all fields within the profession. The intra-observer reliability is therefore regarded to be relatively high.

Case records or files of youths that are clients of the department as well as local welfare organisations were reviewed in order to assess the rehabilitation process to which they were exposed if any. All information gathered was encoded onto a data coding form (Appendix I).

3.6.1 Tools used

3.6.1.1 To describe the functioning and the impact of the centre

The following were reviewed:

- Record books
- Case Files
- Assessment reports
- Policy guidelines
- Acts
- Draft bills
- Interviews/discussions
- Personal experience

3.6.1.2 To obtain descriptive data on youths in conflict with the law

Consent was obtained from parents or guardians before completing the questionnaire.

Permission was requested in writing and obtained from welfare organisations and Provincial Administration: Western Cape (Developmental Social Services) to access case records of youths (Appendices A, B, C, D, E, F, G and H). All information was kept confidential.

Record books, case dockets (South African Police Services, 1996-2002), case files, assessment reports and acts were reviewed.

3.6.1.3 To identify both negative and positive outcomes among these youths

Data was collected through face-to-face interviews, consisting of open- and close-ended questions with youths and their family/proxy, contact with the local SAPS station, local authority and case files from social workers. The researcher (See 3.6.4) compiled the questionnaires and also administered the interviews during the school holidays in July 2001 and September 2002.

Recommendations will be all inclusive of the above-mentioned, resulting in commenting on its positive or negative effect on the service as a whole.

3.6.2 Indicators to describe the impact of assessment

The following descriptive indicators of a positive outcome to the rehabilitation process, following referral to the after-hours AARCs, were identified and used for this study:

- Annual referrals (decrease/increase)
- Decrease in repeat offenders
- Decrease in repeat offences
- Decrease in seriousness of crimes

- Decrease in anti-social conduct (see 2.2.2)
- Positive behaviour (see 2.2.3)

3.6.3 Follow-up interviews to evaluate progress made by youths in conflict with the law

The interviews were conducted in the home or workplace of youths, while other significant role players were interviewed at their respective offices. As most youths were located at their physical address it took approximately 12 days over three weeks to complete the gathering of data.

A self-pre-compiled questionnaire or data coding form (Appendices J and K) was used to record information obtained from documents as well as information obtained during follow-up interviews. This comprised 30 questions, which the researcher deemed relevant to the study and are based on her personal experience in this field.

After the researcher had conducted a pilot study (see 3.6.4) by interviewing 10 youths in conflict with the law appearing in the juvenile court in Bellville, to check for any limitations and user-friendliness, the interviews were conducted with the subjects in the Helderberg Substructure.

3.6.4 Pilot studies and reliability

The Bellville Magisterial Court was identified for the pilot study as this is within the District Office area of operation and a probation officer is ascribed to the juvenile court for day assessments.

Both the coding forms and questionnaires were pre-tested for intra-observer reliability and face validity on 10 July 2001, involving 10 youths about to appear in court. The reliability was pre-tested on 10 youths, randomly selected at the court, to assess whether the questionnaires were understandable and user-friendly, or whether parents felt offended by any of the questions put to them.

Fortunately no adjustments were needed since both the parents and youths described the questionnaires as fair and reasonable.

3.7. Methods of data analysis

The services of a statistician were utilised to assist with the data analysis, using the statistical software package Statistica 5.1. Data was analysed using both the qualitative and quantitative approaches. As most responses are categorical, these were summarised using tables, percentage distributions, as well as figures and graphs to describe, evaluate and comment on the impact of the service.

3.8. Adjustment to the Research Proposal

Initially the researcher intended to collect data from records of youth offenders from 1996-1997, but due to the fact that the researcher started collecting data in 2001 it was then decided to include 1998 and 1999 records of youth offenders. This was aimed at improving the sample size.

CHAPTER 4

PRESENTATION OF DATA

The data collected is presented according to the objectives stated in the methodology in Chapter 3. Organograms, tables and diagrams are included to provide the reader with visual presentation of the data. The functioning of the AARC, and its impact on the Bellville District Office and the personnel involved in rendering the service, will be described.

4.1 The functioning of the AARC and its impact on the District Office

4.1.1 Policy and guidelines underpinning the programme (Objective 3.2.1)

The most significant policy for youths in conflict with the law is having probation officers available for assessment since 18 August 1995. This service was piloted in the Wynberg District area in the Western Cape. The policy is underpinned by the Republic of South Africa's Constitution 1996, which states, in Chapter 3, that even youths in conflict with the law have certain rights to be respected. The departments involved in executing the policy are Social Services, Justice, Correctional Services and the Police Service, of which Social Services are the main driver. The above-mentioned departments were mandated by Cabinet to implement the policy in 1995. These departments all shared the vision to ultimately have a Child Justice Bill to drive the process. In the interim the Draft Child Justice Bill is applicable, which has the same objectives as the Child Justice Bill. The aim of the Draft Child Justice Bill is to provide justice to youths in conflict with the law. Further it emphasises restorative justice by including concepts such as accountability, reconciliation and the involvement of parents, families, victims and communities (South African Law Commission, 1997).

Figure 3, taken from the Draft Child Justice Bill, provides a schematic representation of the origin of the policy and illustrates the inter-dependence of departments.

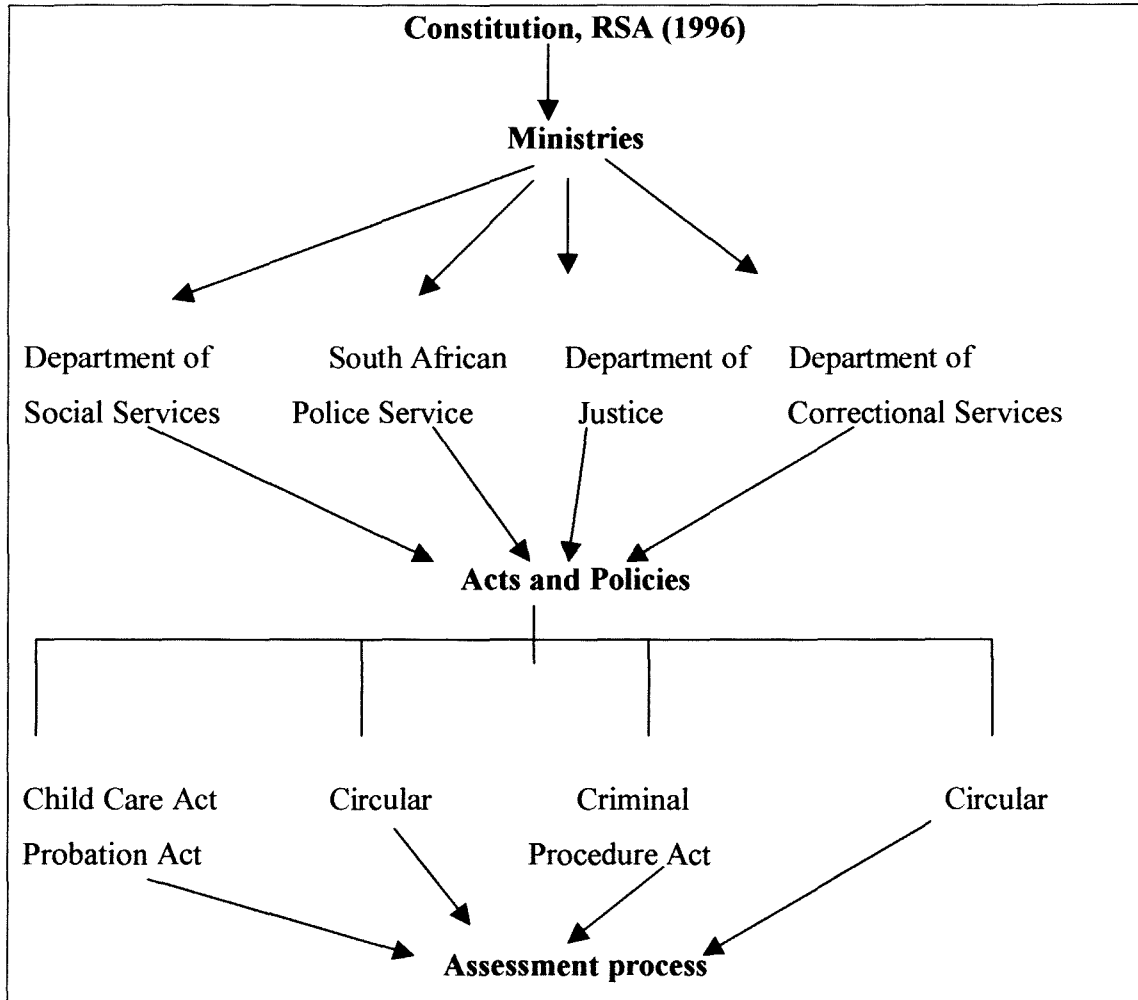


Figure 3: Origin of the policy for youths in conflict with the law

The Department of Social Services is bound by legislation to render a service to youths at risk, including those in conflict with the law. Other role players, such as the SAPS, Justice and Correctional Services, are just as significant. To prevent miscommunication, the Department of Social Services acts as liaison officer for this specific service. Legislation incorporates specific regulations of how the role players should engage with the youth and can be kept accountable for gross violations of the acts, policies and regulations.

4.1.2 Implementation of policy

4.1.2.1 Administrative tasks

The Department of Social Welfare has a district office in Bellville. Since December 1995 the Bellville District Office has been responsible for implementing the policy in the Kuils River, Somerset West, Strand and Stellenbosch Magisterial Districts. In 1998 the Paarl District Office took over responsibility for the Stellenbosch Magisterial Districts. In May 2000 the Eerste River District Office was established, which is presently responsible for the service in Kuils River, Somerset West and Strand Magisterial Districts.

The Helderberg Substructure was the fourth centre scheduled to be in operation from December 1995. The researcher acted as the co-ordinator for this assessment service. The centre operated from Macassar Police Services, serving other police stations, namely Somerset West, Strand and Gordon's Bay. The officer on duty could be requested to assess youths at any of these stations and was on duty from 17:00 - 20:00 on weekdays and 14:00 - 18:00 during public holidays.

4.1.2.2 Human Resources

Social workers also referred to as probation officers, in the employ of the Government according to Public Service Act, Act No. 20 of 1994, were and still are the only persons eligible to conduct the assessment interview. Social workers, on contract could assist if their contracts stated that they could deliver an after-hour service. Officers involved in after-hours service did not necessarily serve the criminal court during office hours.

The following functions were the sole responsibility of the local district office delivering the assessment service.

1. Co-ordinator (The position was held: by a Chief Social Worker with a secundus)

Duties:

- Negotiating for a centre and the provision of other infrastructure, especially access to a telephone, preferably at no costs.
- Organising transport for the officer on duty to and from the centre and monitoring the kilometres travelled to ensure cost-effectiveness.
- Monitoring record keeping of the youths assessed and providing stationary.
- Compiling the roster for a period of not less than three months (Presently the position is rotated every three months). Spot checks were done in order to monitor irregularities, i.e. absence of officers, holding of youths in cells.
- Maintaining a positive spirit among role players.
- Monitoring meetings with role players (initiated by the researcher and put in place before the offices split). The researcher, however, remained at the Bellville District Office. Monitoring meetings was a very important activity, ensuring that everyone was doing their duty.
- Writing quarterly reports (with statistics), attending Provincial Forum meetings, convening local meetings and/or workshops in order to provide development - and enrichment opportunities.
- Checking claims on a monthly basis and sending them to Head Office for payment.

2. Probation Officer

Duties

- Being on duty at prescribed hours, although this could be extended if the number of youths arrested justifies the extension of time.
- Assessing all youths referred by the police and ensuring that procedures were met, as well as preventing the detention of youths in police cells and identifying a parent/guardian to support the youth.
- Where applicable forwarding written irregularities/complaints to the co-ordinator, who was responsible for addressing the complaint, either by telephone or at the bi-monthly Justice monitoring meetings.

4.1.2.3 Networking/liaison with other role players

After the inception of the after-hour assessment service in the Helderberg Substructure the following was agreed upon and still applies. Youths from Gordon's Bay and Strand were assessed at SAPS Strand, although the officer may have reported at Gordon's Bay, for instance, if police had no transport available. Somerset West and Macassar's youths were assessed at SAPS Macassar, here referred to as the AARC. Guidelines with regard to the functioning of the AARC were compiled by the Department of Social Services in order to have uniformity among the probation officers.

Working agreements with NGOs and PWOs made provision for the rendering of child and family care services, considering the fact that prevention programmes would concentrate on development of the youth. NICRO was the only PWO to provide a diversion programme, namely the Youth Empowerment Scheme (YES) Programme, and pre-trial community service orders, which entailed prescribed hours of voluntary work at a designated facility.

4.1.2.4 Monitoring from Social Services Head Office

The Social Services Head Office had the following responsibilities:

- Implementing and maintaining the overall service in the province.
- Convening forum meetings and workshops at provincial level as well as maintaining liaison with the national department.
- Providing an efficient budget to prevent over-spending.
- Attending monitoring meetings in the districts on request.

The above-mentioned objectives provided a framework of the policy and its implementation.

4.2 The process of assessment of youths in conflict with the law. (Objective 3.2.2)

The assessment process included different role players: SAPS, the previous Department of Health and Welfare, the Department of Justice, the Department Correctional Services and the community/parents who fulfilled an important support function. Each role player had their specific role and had a significant influence in the youth's life. The researcher aimed at highlighting the different roles played by each role player and the impact they have on this service. These role players' also functioned as ombudsmen for the implementation of the policy in order to ensure that the objectives of the policy were met, namely diverting youths from the criminal justice system and limiting their exposure to hardened criminals. Figure 4 is a schematic representation of the process involved.

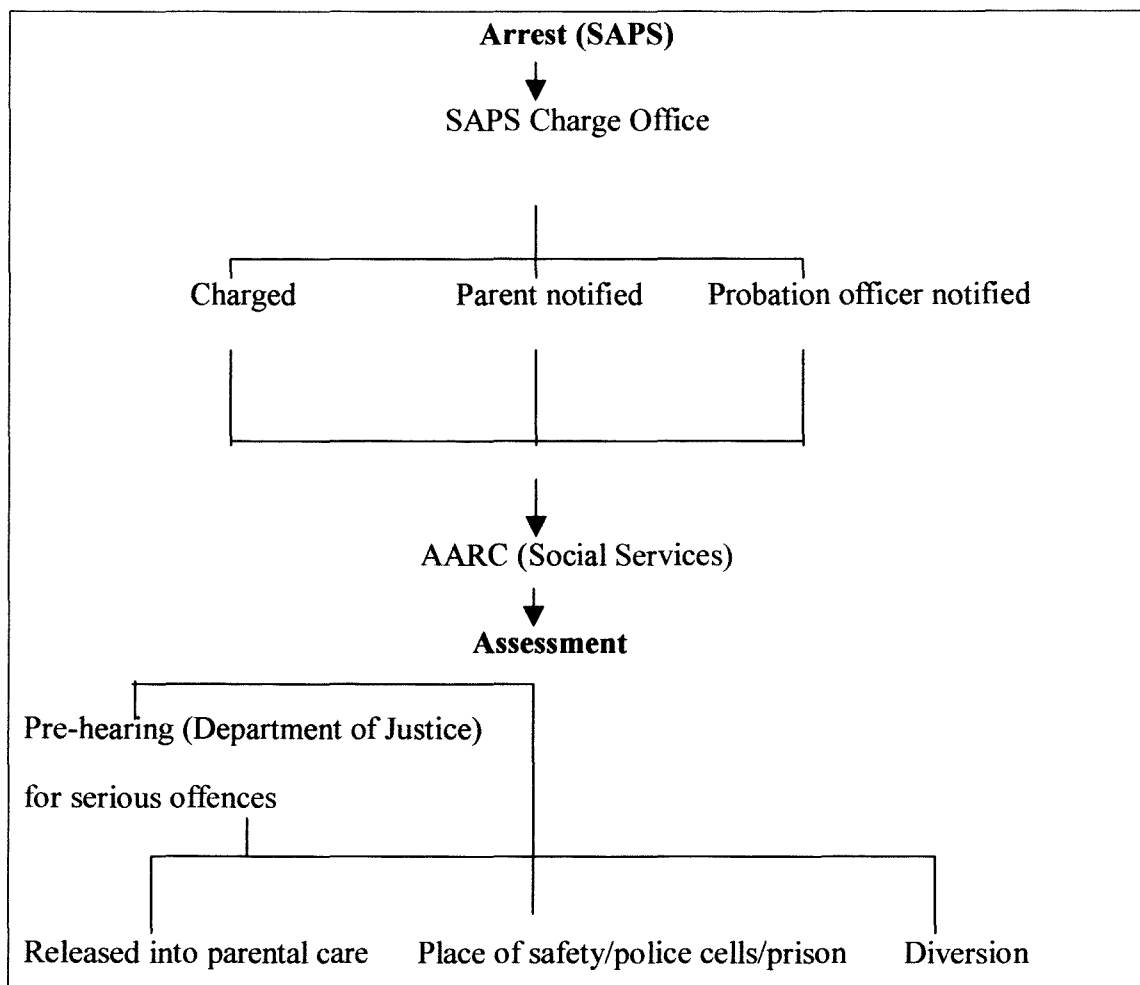


Figure 4: A schematic representation of the process involved when a youth is arrested

It is evident from Figure 4 that the different role players each had their own prescribed duties although they were inter-dependent for the completion of the cycle.

4.2.1 Arrest

When a youth was arrested the police had to make every effort, as soon as possible, to:

- Notify parents or guardians about the fact that the youth has been arrested (Section 50(4) of the Criminal Procedure Act, Act No. 51 of 1977, hereafter referred to as CPA), though this was not usually the case and therefore the reason for the Law reform regarding children awaiting trial, see Chapter 2 page 18, paragraph four.
- Notify parents of the time, place and date on which the youth will appear in court (Section 74(2) of the CPA).
- Obtain confirmation of the age of the youth when notifying parents of the arrest.
- Consider the release of the youth to parents or guardians on “police bail”, where this is suitable (Section 59(1)(a) of the CPA).
- Consider the release of the youth into the “care of the person in whose custody he is” and the issuing of a written notice to appear in court in cases where the youth could be released on police bail (Section 72(1)(b) of the CPA).
- Notify a probation officer that a youth has been arrested (Section 50(5) of the CPA).
- Take the youth directly to a probation officer for assessment if there is a probation officer on duty.

The Provincial Department of Social Development had to make the following available to all police stations in the area of service:

- The times at which probation services are available.
- Venues to which children are to be brought for assessment.
- Relevant names and contact details of probation officers.
- Any assistance the department can offer in finding family.

It should be noted that the Criminal Procedure Act does not define the term “guardian” and the courts had been left to interpret this. They had generally given it a broad interpretation, allowing family members such as aunts and uncles, grandparents and older siblings to stand as guardians for youths. This facilitated the release of youths, and was a positive practice provided that the person into whose care the youth was released was 18 years or older, and had a pre-existing relationship with the youth, although this need not necessarily have been a blood relationship. For youths in boarding school or residential care, the teacher or care worker could stand in as a guardian.

4.2.2 Assessment

The Provincial Department of Social Development had to ensure that:

- Every arrested youth was assessed by a probation officer as soon as possible and no later than 48 hours after the arrest.
- A sufficient number of trained staff were made available in the area of service to undertake such assessments.
- Probation services liaised between the residential care facilities (run or subsidised by the Department of Social Development) and the Court, ensuring that the courts were informed about the various facilities and the availability of places in each facility on an ongoing basis.

The assessment had to be recorded on an assessment form. It included the following relevant information:

- Name
- Address
- Age (source included)
- CAS number, police station and investigating officer's name
- Availability of parents/guardians and attempts to contact them
- Relevant background information

It also contained recommendations regarding:

- Diversion
- Release into care of parent/guardian
- Placement (and availability of places in recommended facility)
- Age estimation

The Department of Justice and Constitutional Development assisted the Provincial Department of Social Development by:

- Ensuring that probation officers have easy access to all youths appearing in the courts, including those appearing in the ordinary (not “juvenile”) district courts.
- Designating one court within a district to deal with all juvenile matters, as far as is reasonably possible.
- Allowing adequate time for assessments to take place on the morning of the first appearance, if such assessments have not already been completed.
- Notifying Probation Services if a youth was due to appear in court and had not been assessed, and making such youths available for assessment.

After assessment, prior to appearance in court:

- The probation officer handed over the completed assessment form to the prosecutor, and, where possible, discussed or explained the recommendations.
- The prosecutor perused the completed assessment form, together with the docket, and makes a decision on whether or not to prosecute.
- If the matter was to be remanded for further investigation or for trial, the issue of placement also needed to be considered.
- The probation officer informed the prosecutor as to availability of places at the various facilities. If further information regarding placement was required the prosecutor could ask for such information to be provided by the probation officer.
- If it appeared likely that the youth could be released into the care of the parent or guardian but such person(s) were not present at the court, the matter could stand down, and the prosecutor requested the probation officer and investigating officer to make all reasonable efforts to ensure that the parent/guardian attend court. If they did not come to court on that day, the remand date recommended by the prosecutor, would be in a few days.

4.2.3 First appearance in court

At the first appearance in court, consideration was given to the completed assessment form and the recommendation of the probation officer regarding release or suitable placement, including availability of places in the recommended facility. If the magistrate did not agree with the probation officer's recommendation, the probation officer would, where possible, be called to give reasons to support his/ her recommendation.

The options for placement to be considered are hierarchically set out below. The least restrictive options would be considered first:

- Release of youths into the care of parent/guardian. If it seemed likely that the youth could be released to a parent or guardian but that all efforts to get such person(s) to court on that day had failed, the youth would be remanded for suitable placement, based on the recommendation of the probation officer, for a short period of time.
- The placement of the youth into the care of the parent or guardian, with additional conditions, such as regular reporting to the police or to the probation officer. This option was suitable where the family was willing and able to take the youth into their custody but the court had some concerns about abscondment.
- The placement of the youth in a place of safety.
- The placement of the youth in a secure care facility.
- The suitability of setting bail in an affordable amount.
- Detention in prison as a last resort and for the shortest possible period of time.

4.2.4 Remands

According to current law, youths awaiting trial in prison must be remanded for periods of no longer than 14 days. The idea of bringing youths back to court regularly was aimed at giving children an opportunity to raise problems or concerns regarding his or her placement with the magistrate, and thus attempted to serve as a monitoring system for youths in detention. It was recognised that the practical application of these regular remands tended to place an additional burden on the courts and even added to the possibility of delays in the case, thus ultimately in some instances, having a negative result on the youth. For these reasons the Draft Child Justice Bill published by the SA Law Commission now extends this 14-day remand period to 30 days. However, until such time as the new law has been passed, the 14-day remand rule was observed.

The Department of Social Development could use remands as an opportunity to suggest alternative placement for the youth if, for example, it had become apparent that the youth has been inappropriately placed, or if a vacancy had become available in a more suitable placement option. The social workers at the residential facilities would contact the probation officer at the court or the prosecutor and arrange to have a new recommendation made to the court. Police would transport youths awaiting trial in facilities run by the Department of Social Development to and from court for remand and trial appearances.

Dockets regarding accused youths were read very carefully at each remand and the prosecutor would assess the progress of the investigation and the prospects of a successful prosecution. If the prospects of a successful prosecution appeared to be dwindling, consideration would be given to the release of the youth, even if the matter was to remain on the court roll.

Further the Interim Policy suggested that in order to streamline the process of very regular remands of youths, courts could consider “clustering” the remands for certain days of the week, for example, on Tuesdays and Fridays, thus providing days that are clear of remands on which trials could be heard. In areas where the prisons were designated as “places of sitting” (Pretoria and Port Elizabeth) consideration could be given to clustering the remands and doing them on two days each week in the prison. If this process was followed, due regard should be given to enable their families to attend such remands where possible. In the Western Cape this was not a general practise.

It should be noted that the 14-day remand rule could also place pressure on parents, guardians or other family members who were required to attend each hearing. Whilst the presence of such persons to support youths should always be encouraged, court staff should be sensitive to the fact that working parents might not be able to be absent from work every two weeks for extended periods of time. It was possible to release them from this responsibility, provided that measures were taken to ensure that they were present on the date of trial, either by being warned by the court, or through the assistance of the police to appear on the trial date.

4.2.5 Requisitions

Where, in the opinion of a manager of a residential facility, a youth has been placed inappropriately and a more appropriate placement option was available, the youth could be requisitioned to court for a change of the order to be considered.

If a youth had been placed in a residential facility because his/her parent or guardian was not at court on the first appearance, but available at a later stage and willing to take the youth into their custody, the youth could be requisitioned to court so that the order can be reconsidered.

The social worker at the facility had to notify the probation officer if a requisition was required, and the probation officer would make the necessary arrangements with the clerk of the court. Information regarding the specific court, the youth's name and the case number, as well as the next date of appearance will be required for these arrangements to be made. Transport for these requisitions, from the facility to court, was the responsibility of the police. They would need to be notified in good time.

4.2.6 Age assessment

Where the age of a youth was uncertain, and there was reason to believe that he/she may be over the age of 18 years, the magistrate might have made an estimation of the age in terms of Section 337 of the Criminal Procedure Act. Information obtained by the probation officer during the assessment process would have assisted the court in this regard. It was not necessary to resort to the assistance of the district surgeon or district medical officer to determine age, but this might have been of value to the court in making a determination of age.

If age was disputed as a clear matter of fact after a youth had been placed in one of the residential facilities, the social worker at the facility could have asked the probation officer or the prosecutor to bring this to the attention of the court at the next appearance. Where the matter appeared urgent, for instance if the young person posed a threat to children in the facility, the social worker could have asked the probation officer or prosecutor to make arrangements for the child to be requisitioned to court.

The social worker or a child care worker from the facility would have made him-/herself available to give evidence regarding age where this was necessary or appropriate, and the court should hear and take note of evidence in this regard.

4.2.7 Monitoring

The situation of youths should be monitored within each district. This could be achieved through an inter-sectoral meeting, which should take place preferably on a monthly basis but no less than four times per year. Representatives of the following institutions should attend the meetings:

- The Department of Justice and Constitutional Development
- The Office of the DPP
- The Department of Social Development (preferably Probation Services and a representative from Residential Care Services)
- The Department of Correctional Services
- The SAPS
- The Department of Education
- Relevant NGOs, i.e. those providing services such as diversion programmes.

At these meetings cognisance should be taken of the number of youths in custody, both prisons and Social Development facilities, the number of youths diverted, the number of cases where youths have been in custody for more than three months, and more than six months. The purpose of keeping and examining these figures was to give attention to problems and ensure that priority attention was given to cases where youths have been in custody for long periods of time. The meetings should have provided an opportunity for the partners to raise issues and improve inter-sectoral management systems in order to make the system operate more efficiently. Crisis issues, such as injuries or deaths of youths during arrest or whilst in custody, overcrowding in facilities and escape from facilities, should be dealt with urgently,

through sub-committees appointed by the meeting. Relevant national departments should be notified about these crisis issues. In the proposed new system such local inter-sectoral structures will become the core structure of a new monitoring system (Child Justice Project, 2001).

Being a draft policy the strengths and weaknesses following its implementation are also highlighted as experienced especially by the social worker responsible for the assessment of youths in conflict with the law and liaison with other role players.

4.2.8 Strengths and weaknesses of the acts, policies and the process of implementation

Below is a representation of the strengths and weaknesses of the current policy as set out in Table 1.

Table 1: Strengths and weaknesses of aspects covered by the current policy

ASPECTS COVERED	STRENGTH	WEAKNESS
Acts and policies (Child Justice Bill, of which a draft presently applies)	<ul style="list-style-type: none"> • The Draft Child Justice Bill (DCJB) will replace four laws of four different Departments (see figure 3) • The DCJB is supported by the Constitution of RSA 	<ul style="list-style-type: none"> • The four laws from different departments lack uniformity • There are no clear communication channels to convey information between the four departments, contributing to resistance to change • The Child Justice Bill is not yet legislated
Administrative tasks (Implementation of policy)	<ul style="list-style-type: none"> • With the legislation of the DCJB, One-Stop Child Justice Centres will come into effect and ensure: <ul style="list-style-type: none"> - Less duplication of tasks - Networking and co- 	<ul style="list-style-type: none"> • Inconvenient location of centres increased travelling costs and longer working hours • Differences in shifts of SAPS and social workers

	<p>ordination of services</p> <p>- Legislated monitoring</p>	<p>SAPS and social workers</p> <ul style="list-style-type: none"> • Lack of access to criminal records (SAP 69), resulted in duplication • Parent/guardian not informed of the arrest of youth • Language (interpreter not always available) • Social Services implementing their own tracking system (finger-print and photo). It is argued that this causes secondary trauma to the YCWL. • Diversion options are not fully supported by all role players • No proper monitoring or networking • Co-ordinator doing both assessment and monitoring
The staff component	<ul style="list-style-type: none"> • Social workers are committed although few render after-hours service • Social workers are committed to transformation and change regarding justice for YCWL 	<ul style="list-style-type: none"> • Only social workers in government employ can render this service • Limited work-force, since appointment of assistant probation officers is not fully implemented • No flexi-time or relief
Monitoring and evaluation	<ul style="list-style-type: none"> • Intention to monitor & evaluate the AARC was part of the process of the policy though the structures for this was not developed. 	<ul style="list-style-type: none"> • No clear structures put in place for monitoring and evaluation. • Monitoring and evaluation depend on the co-ordinator for after-hours service,

		<p>although Department of Justice chairs these meetings</p> <ul style="list-style-type: none">• Assessment service is not a standing point on the agenda at Justice Meetings
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In this section the actual process of the assessment of youths in conflict with the law was outlined. The researcher will furthermore evaluate the practical implications of the service by describing how the youth, especially the study sample and the parent/proxy, experienced the process.

4.3 A description of youths in conflict with the law (Objective 3.2.2).

4.3.1 Listing the number of youths in conflict with the law at the initial assessment: (Demographic Detail)

- The researcher reviewed registers from the AARC to identify youths that had offended, since the implementation of assessment.
- The researcher analysed the study sample (n=74) regarding the ratio of males to females, and the age distribution of all youths for each year.
- The study sample included youths, younger than 18 years of age and eligible to be referred to an institution for any anti-social behaviour according to the Child Care Act 74 of 1983.

Figures 5 and 6 indicate the distribution of male and female offenders from 1996 to 1999.

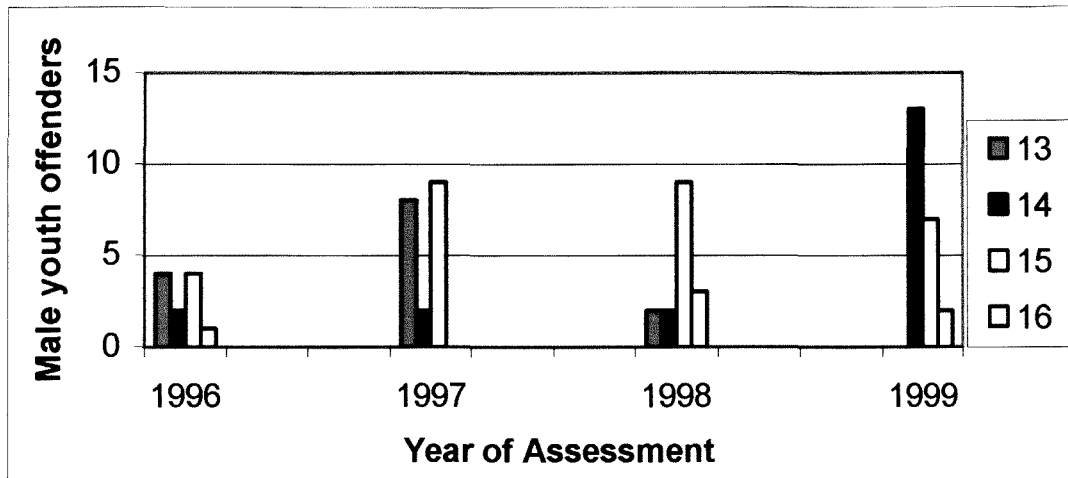


Figure 5: Male youth offenders involved in crime for period 1996 – 1999

Y-Axis: Number of male youth offenders

X-Axis: Years of assessment - 1996, 1997, 1998 & 1999

Index box: Ages of male offenders 13,14,15 &16

Figure 5 indicates that:

- From 1996 – 1999, 92% (n=68), males committed crime.
- From 1996 - 1999 except for 1998 (n=16), there was a gradual increase in young males experimenting with crime.
- In 1999 there was an increase of 14 years olds involved in crime, (n=13) as compared to other years (1996=2; 1997=2; 1998=2).
- The 14 (n=21) and 15 (n=29) year old age groups are at high risk, (See Definition of Terms) to commit crime than any other age group as they compare to 73% of the total number (n=68) of male youth offenders.

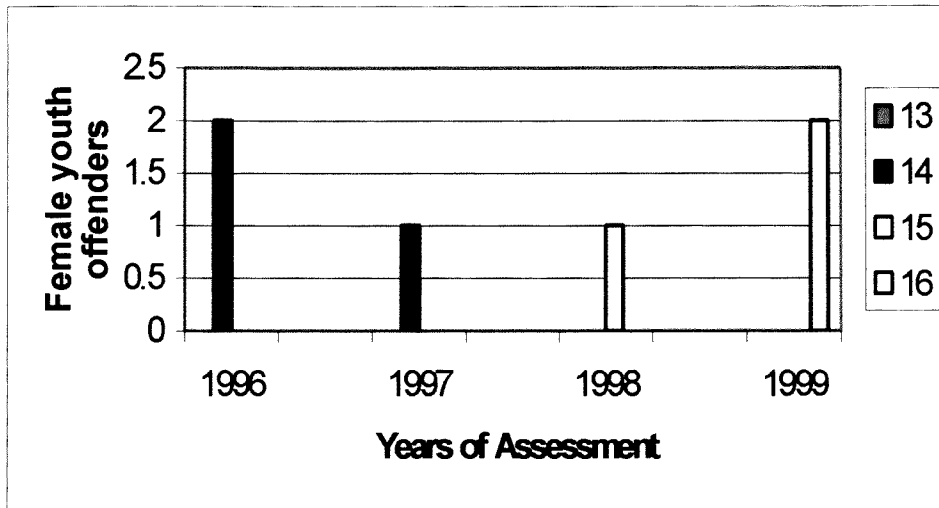


Figure 6: Females youth offenders involved in crime for period 1996 – 1999

Y-Axis: Number of female youth offenders

X-Axis: Years of assessment - 1996, 1997, 1998 & 1999

Index box: Ages of male offenders 13,14,15 &16

Figure 6 indicates that:

- Only 8% females ($n=6$) committed crime over the study period, in contrast with 68 males.
- There is no pattern in the ages or the number of the females committing crime (1996=2; 1997=1; 1998=1; 1999=2).

Further aspects of the demographic detail of the study sample is presented in Table 2.

Table2: Demographic description of the study sample

DEMOGRAPHIC DETAILS	NUMBER INVOLVED	PERCENTAGE %
Year & Number of YCWL:		
• 1996	• 13	• 18%
• 1997	• 20	• 27%
• 1998	• 17	• 23%
• 1999	• 24	• 32%
Household managed by:		
• Single parent (mother)	• 33	• 45%
• Both parents	• 28	• 38%
• Other / Guardian	• 13	• 17%
Youth's birth position:		
• Eldest child	• 33	• 45%
• Second child	• 16	• 22%
• Middle child	• 12	• 16%
• Youngest	• 13	• 17%
Cared/Supervised by:		
• Parents	• 52	• 70%
• Other Family members	• 22	• 30%
Financial status of parents:		
• Sole breadwinner (unskilled labourer & state grants where grandparents are the carers)	• 47	• 64%
• Both working (unskilled labour & state grants dependants)	• 15	• 20%
• None working	• 12	• 16%
No of prevention programmes by school	4 (Aids, Abuse, Crime, Substances) presented By Specialised groups	• 0%
Aftercare Services provided:		
• Yes	• 0	• 0%
• No	• 74	• 100%
Client seen by a Social Worker:		
• Yes	• 23	• 31%
• No	• 51	• 69%

Type of Social Worker Services:		
• Casework ²	• 23	• 100%
• Developmental approach	• 0	• 0%
Change/contact with Social Worker:		
• Yes	• 20 (no contact with Social worker)	• 87%
• No	• 3	• 13%
Refer to Place of Safety:		
• Yes	• 18	• 24%
• No	• 56	• 76%
Leisure-time seen as constructive by youth:		
• Yes	• 37	• 50%
• No	• 37	• 50%
Interest in Personal Development: (Skills and Guidance Programmes)		
• Yes	• 67	• 91%
• No	• 7	• 9%
Friends done crime:		
• Yes	• 43	• 58%
• No	• 31	• 42%

Table 2 indicates that:

- The years selected was the 4 years immediately after implementation of assessment.
- The numbers of YCWL did increase, from 18% in 1996 to 32% in 1999, although it had no particular trend.
- Most youth in conflict with the law were from single parent (mother) families 45% (n=33), compared to those coming from complete families, i.e. having both parents 38% (n=28).
- From the study sample, 70% (n=52) were cared for by own parents, while 30% (n=22) were dependent on other family members.

² Casework as social work method is defined by Bowers in (Le Roux, 1970:71) 'as an art in which knowledge of the science of human relations and skill in relationship are used to mobilize capacities in the individual and resources in the community appropriate for better adjustment between the client and all or any part of his total environment'.

- Only 16% (n=12) families from the study sample had no income, while 64% (n=47) has a sole breadwinner and 20% (n=15) reflected an ideal situation where both parents worked.
- Youths who were an eldest child, 45% (n=33) tended to have a higher tendency to commit crime, than those who were the youngest child 17% (n=13) or the middle child 16% (n=12).
- With regard to services rendered by a social worker 31% (n=23) of the study sample were affiliated with a welfare organisation, while 69% (n=51) relied on their own resources, i.e family/church/neighbour for advice. The services rendered by social worker were primarily based on a one-to-one casework approach. There was also minimal contact 87% (n=20) between the youth, their family and the social worker.
- Schools presented no prevention programmes.
- Leisure-time pursuits of the study sample showed no particular preference.
- Of the study sample 58% (n=43) of their friends, had committed crime.
- Of the study sample 91% (n=67) requested programmes, regarding skills/guidance.

4.3.2 Documenting the nature and seriousness of the criminal offence and repeated offences by describing:

- The crime in which the youth was involved.
- The youth's anti-social behaviour at initial assessment.
- The Diversion option utilised and the number of youth referred for alternative sentencing.

Table 3(1) – 3(3) display the following aspects, captured from the registers for youth offenders at initial assessment:

Table 3(1): Profile of youth offender regarding the crime at initial Assessment

INDICATORS	1996	1997	1998	1999	TOTAL	PERCENT-AGE (%)
Crime involved						
Murder	1	0	0	0	1	1%
Theft	1	3	9	11	24	33%
Shoplifting	3	1	3	3	10	14%
House-breaking	8	13	3	8	32	43%
Possession: drugs	0	1	0	0	1	1%
Robberies	0	2	2	2	6	8%

Table 3(1) indicates that:

- Youths were most often involved in housebreaking 43% (n=32); theft 33% (n=24) and to a lesser degree shoplifting 14% (n=10) which are economic in nature.
- Physical onslaught to human beings, i.e. murder and robberies were 1% (n=1) and 8% (n=6) respectively.
- Possession of drugs also accounted for only 1% (n=1) of offences.

The following Table 3(2) highlights the anti-social behaviour, identified at first assessment of the youth involved in crime.

Table 3(2): Profile of youth offenders regarding the anti-social behaviour at initial Assessment

INDICATORS	1996	1997	1998	1999	TOTAL	PERCENT-AGE (%)
Anti-social Behaviour						
Alcohol abuse	5	8	4	2	19	15%
Dagga smoking	3	10	8	6	27	22%
Gangsterism	1	0	0	0	1	1%
Early school leavers	9	13	12	14	48	38%
Truancy	6	11	7	3	27	22%
Streetchild	0	1	1	0	2	2%

Table 3(2) indicates that:

- Early school leavers amounted to 38% (n=48) while 22% (n=27) from the study sample played truant.
- Experimenting with substances such as dagga smoking 22% (n=27) and alcohol abuse 15% (n=19) were found amongst the study sample.
- Initially street children were excluded from the sample but the 2% (n=2) stayed at home at the time of the initial assessment.

The following Table 3(3) highlights the Diversion Options utilised over the years.

Table 3(3): Number of youth offender considered for and types of Diversion Option at initial Assessment

INDICATORS	1996	1997	1998	1999	TOTAL	PERCENT-AGE (%)
Diversion Options						
Yes Programmes:						
- Referred	6	8	10	18	42	56%
- Not referred	7	12	7	6	32	43%
Community Service (200hrs)	0	0	0	1	1	1%

Table 3(3) indicates that:

- Referrals for diversion slowly increased from 8% (n=6) in 1996 to 24% (n=18) in 1999 and in total 56% (n=42).
- Referrals not considered for diversion decreased only from the third year after implementation, 1996=7; 1997=12; 1998=17 and 1999=6.
- Only 1% (n=1) out of 74 youths was considered for rendering community service only during 1999, rather to being sentenced in the criminal court.

4.4 The identification of anti-social conduct during follow-up interviews (Objective 3.2.3).

The interviews were conducted during the school holidays in July 2001 and September 2002. After assessment youths who suited the diversion programme criteria underwent the relevant empowerment programme. Only 56% (n=42) of the 74 youths as stated above, attended the programme. During July 2001 and September 2002 the follow-up interviews were done in order to evaluate the impact of the assessment process. This included both those youths referred and those not referred for diversion. The researcher evaluated this by analysing both positive and negative (anti-social) behaviour of youths in conflict with the law after they had been assessed and referred for diversion.

Table 4(1) – 4(2) provides a profile of the anti-social behaviour of youth, after intervention (following initial assessment), displayed during the interview.

Table 4(1): Profile of youth offender, regarding anti-social behaviour, displayed during interview.

INDICATORS	1996	1997	1998	1999	TOTAL	PERCENT-AGE (%)
Anti-social behaviour (at time of interview)						
Alcohol abuse	6	8	4	5	23	20%
Dagga smoking	2	11	6	5	24	20%
Gangsterism	1	0	0	0	1	1%
Unemployed/ not at school	8	13	11	10	66	57%
Street child	0	1	1	0	2	2%

Table 4(1) indicates that:

- Unemployment amount to 57% (n=66).
- Alcohol abuse amount to 20% (n=23).
- Dagga smoking amount 21% (n=24).

The following Table 4(1.1) highlights the percentage difference in anti-social behaviour for before and after assessment for youth offenders.

Table 4(1.1): Percentage difference in anti-social behaviour at initial Assessment compared to the time of interview

ANTI-SOCIAL BEHAVIOUR	PERCENTAGE (%) AT INITIAL ASSESSMENT	PERCENTAGE (%) AT TIME OF INTERVIEW	PERCENTAGE DIFFERENCE (After-Before)
Alcohol abuse	15%	20%	5%
Dagga smoking	22%	20%	-2%
Gangsterism	1%	1%	0% (unchanged)
Early school leavers	38%	0%	-38%
Unemployed	0%	57%	57%
Truancy	22%	0%	-22%
Street child	2%	2%	0% (unchanged)

Table 4(1.1) indicates that:

- Alcohol abuse increased by 5%.
- Dagga smoking decreased by 2%.
- Truancy, 22% (n=27) and early school leavers, 38% (n=48) stayed the same.

The following Table 4(2) highlights the criminal involvement after assessment.

Table 4(2): Description of the criminal involvement after Assessment and its consequences for the youth.

INDICATORS	1996	1997	1998	1999	TOTAL	PERCENT-AGE (%)
No of re-offenders 1996-2001	3	3	4	4	14	19% (¹⁴ / ₇₄)
Type of re-offence:						
Murder	0	0	0	0	0	0%
Robbery	1	1	2	1	5	36%
Housebreaking	2	0	1	0	3	21%
Theft	0	1	0	1	2	15%
Assault	0	1	0	0	1	7%
Shoplifting	0	0	1	2	3	21%
No incarcerated:						
Imprisonment	3	3	3	3	12	16%
Youth Centre	0	0	2	1	3	4%

Table 4(2) indicates that:

- From the cases diverted 19% (n=14) re-offended.
- The number of youths in prison, increased from n=3 (1996) to n=12 (1999).
- The number of youths institutionalised increased from n=0 (1996) to n=3 (1999).
- Robbery was more often experimented with, compared to shoplifting and housebreaking, while assault was a new offence, see Table 4(2.1).

The following Table 4(2.1) highlights the percentage difference in criminal involvement before and after assessment for youth offenders.

Table 4(2.1): Percentage difference in criminal involvement at initial Assessment compared to at the time of interview

CRIME INVOLVED	PERCENTAGE (%) AT INITIAL ASSESSMENT	PERCENTAGE (%) AT TIME OF INTERVIEW	PERCENTAGE DIFFERENCE (After–Before)
Murder	1%	0%	-1%
Theft	33%	15%	-18%
Shoplifting	14%	21%	7%
House-breaking	43%	21%	-22%
Possession: drugs	1%	0%	-1%
Robberies	8%	36%	28%
Assault	0%	1%	1%

Table 4(2.1) indicates that

- Theft charges decreased by 18%.
- Robbery charges increased by 28%.
- Assault charges increased by 1%.
- Housebreaking charges decreased by 22%.
- Shoplifting charges increased by 7%
- Murder charges stayed the same at 1%

4.5 The identification of positive behavioural changes during follow-up interviews. (Objective 3.2.4)

Qualitative aspects were identified during the interviews and positive changes in youths' behaviour are listed in Table 5(1) – 5(2), as well as aspects regarding behavioural changes, achievements and a healthy life-style are reported and quantified.

Table 5(1) Description of reported positive behaviours and attitudes at the time of the interview

INDICATORS	1996	1997	1998	1999	TOTAL	PERCENT AGE (%)
Positive behaviour at the time of the interview						
Matriculated	1	0	1	0	2	3%
Schooling	0	0	3	7	10	14%
Employed	5	7	3	7	22	30%
Request for programs:	13	17	13	24	67	91%

Table 5(1) indicates that:

- Only 30% (n=22) youths were employed.
- 14% (n=10) youths were still at school.
- At least 3% (n=2) youths had matriculated.
- Both the youth and proxy requested a need for skills and guidance programs, 91% (n=67).

The following Table 5(2) reflected other positive behaviours of youth at the time of the interview.

Table 5(2): Description of reported positive behaviours with regard to sport participation and cultural involvement, at the time of the interview

INDICATORS	1996	1997	1998	1999	TOTAL	PERCENT AGE (%)
Participation:						
Sport: (Soccer, Cricket, Rugby, Hockey, Pool)	7	13	12	15	47	55%
Cultural Activity (drama, music, flying pigeons)	1	0	1	1	3	4%
No new charges	10	17	13	20	60	81%

Table 5(2) indicates that:

- Both participation in sport and cultural activities displayed an increase, but sport participation was preferred by a larger group of youth, (55%) compare to participation in cultural activity (4%).
- A high number of youth (81%) succeeded in not having any new charges laid against them.
- Forty-seven youths were involved in sport, while 3 enjoyed mostly music, drama or flying pigeons. It should be noted that 1 youth could have participated in more than one sport.

4.6 Problems with data collection: records and study sample

The following problems were experienced:

- Files of offenders were hardly available, especially for PWOs. Information was mostly obtained through discussions.
- Social workers' files often lacked important information/documentation, for example documentation regarding referral to an institution/children's court was seldom filed.

- Subjects from informal settlements could not be included, since the Local Authority had difficulty in tracing these youths.

4.7 Comments on findings

This chapter gave a broad description of the findings that were produced during the research process. The assessment of youths in conflict with the law and especially the after-hour service was investigated by means of stating different objectives, i.e. describing the functioning of the AARC, documenting the current process of managing youths in conflict with the law and identifying both anti-social and positive behaviour. Qualitative and quantitative methods were used for both data collection and analysis.

4.8 Bias

Bias was minimised in questionnaires, since there were no right or wrong answers. The researcher honoured the ethics of a trained social worker throughout the study by not being judgemental towards youths, especially those who re-offended, abused substances or were unemployed. The researcher acknowledges that during interviews the youths might have given a response, which they felt would please the researcher, i.e. obsequiousness bias.

4.9 Validity

- a) The choices and investigation methods have combined different approaches to the problem:
 - Discussing the acts, policies and guidelines
 - Describing the centre and interviews with youths/proxy
 - Analysing the strengths and weaknesses of the policy

- Qualitatively and quantitatively describing behavioural changes as reported.
- Attending workshops and seminars to obtain criticism regarding the progress with assessment methodology from experts.
- b) The instruments were further piloted and adjusted where necessary.
- c) The proposal was presented to the Research Committee of the Stellenbosch University for approval and was accepted after certain adjustments.
- d) In-depth literature review was done covering the following topics:
 - Child justice both at international and national level
 - Pre-democratic and post-democratic processes followed in South Africa
 - Restorative justice as prescribed in the Draft Child Justice Bill.
- e) Validity might have been affected by the nature of the study design, i.e. as this is a retrospective study.

CHAPTER 5

DISCUSSION OF RESULTS

The newly appointed Government of National Unity's biggest challenge, according to the mission of the Inter-Ministerial Committee on young people at risk, (See Definition of Terms, page (v)), was to design and implement an integrated child and youth care system by the year 2000. For the youths in conflict with the law this should have taken the form of a Child Justice Bill. The Child Justice Bill is presently tabled in Parliament in order to have it legislated.

In the interim the Department of Social Services has implemented a Draft Child Justice Bill, which contains all the attributes of the Child Justice Bill presented in Chapter 4. In this chapter the researcher will discuss the data presented in the previous chapter according to the objectives presented in Chapter 3.

5.1 Discussion of the functioning of the AARC and its impact on the District Office

5.1.1 Acts, policies and guidelines

The proposed Child Justice Bill has not yet been implemented, with regard to youths in conflict with the law. Parents/guardians are not informed of the arrest of a youth in time, or the diversion option, as recommended by the social worker (See Table 1 on Strengths & Weaknesses, page 47). The four different laws, from different departments (See Figure 3), which still apply along with the Draft Child Justice Bill, are not complementary as expected in awaiting the enactment of the Draft Child Justice Bill. Once the Child Justice Bill is promulgated, it will be mandatory for all role players to adhere to its implementation.

5.1.2 Administrative tasks

The most obvious problem experienced in the absence of a legislated Child Justice Bill is that of the One Stop Justice Centres. Different officers, especially from the SAPS, are assigned to the case of a youth offender, and his/her shift might end before the assessment process starts, resulting in a youth not being ready (charged) and therefore being kept in the police cells for a longer period of time. In contrast, the British Metropolitan Police can release first offenders and prosecute immediately where applicable – an indication that they're effective administrative processes are in place.

Locally both SAPS and the Department of Social Services take the fingerprints and photo of a youth offender, an unnecessary and unprofitable duplication.

5.1.3 Human resources

Social workers employed by government are still the only officers regarded as probation officers and thus the only staff mandated to render an after-hours assessment service. This is also negatively influenced by the delay in the appointment of Assistant Probation Officers, resulting in over-burdened social workers, who then have to also facilitate diversion programmes. The extension of the staff complement is unfortunately an issue that is bluntly ignored. Presently social workers seem to be a scarcity both internationally and nationally, considering the vacancies left by colleagues who go overseas and the requests received for Curriculum Vitae's via the Council for Social Work Profession, for those interested in doing social work overseas.

5.1.4 Networking and monitoring

Networking is inadequate, especially with PWOs and other possible role players who can extend the diversion options and provide support systems in communities for youths after involvement in crime. The media have also called attention to the fact

that PWOs and other non-governmental organisations are not receiving adequate funding from government to render effective child- and family care services.

In the introduction the existing situation of PWOs are mentioned and the findings support that the type of social work services rendered are not as suggested, as casework (100%) is chosen above the developmental approach (0%). The 69% of youth and families, who resorted to other resources for help, support the issue of them questioning the credibility and commitment of the social workers. The fact that 87% (n=20) had no contact with the social worker, although anti-social behaviour and criminal involvement was present, emphasize the need to have measuring tools to assess, monitor and evaluate the service on an ongoing basis. If funding of services are a problem as highlighted in the previous paragraph, it needs to be addressed to ensure that we act in the best interest of youth.

With regard to monitoring, the appointment of an ombudsman to oversee the assessment process is of the utmost importance, since a policy's success is dependent on the implementer's commitment to ensure effectiveness. As noted in the Table 1, on Strengths & Weaknesses the latter can put pressure on the social workers, who in most instances are dependent on legislation to argue and support a recommendation.

In July 2003 a lack of proper monitoring of the assessment process was addressed in a workshop in Athlone, Cape Town. At this workshop a suggestion was made to appoint an ombudsman (Child Justice Project 2003). The researcher supports this recommendation.

5.2 Discussion of the current assessment of youths in conflict with the law

5.2.1 Sample

As indicated in Chapter 3, a number of 137 youth met the inclusion criteria, but only 74 were traced. This was due to aspects highlighted, also in Chapter 3, however one should acknowledge that their exclusion from the study impacted on the results. The question that needs to be asked is "Where are the (46%) n=63 youths that were not traced by the researcher; What activities are they involved in?"

From the data collected and presented in Chapter 4 it can be deduced that males tend to have a predisposition to become involved in criminal activities. From the 74 sample subjects, 91% (n=68) were males and most came from a single parent household with a mother. Also the 14-year olds males displayed a higher tendency (31%) to experiment with crime and this emphasises the issue of a male role model. An interesting feature however was the higher tendency of the eldest child (45%) to be involved in crime compared to the middle or youngest child (See Table 2). If birth order of children plays a role in being at risk, it is difficult to support this in this study. This might be due to the fact that at the time of the study the eldest youth was at an age, ready to commit crime, i.e between 13-14 of age as indicated in Chapter 4.

The group interviewed, showed that youth were resorting to crime at a much younger age, since they are paid in cash for crimes committed. Forty-seven or 64% parents interviewed at the same time acknowledged the fact they can hardly provide the bare necessities of life for their children, an issue also predominating in the Helderberg Substructure. This is supported by the finding in Table 2 that shows families received their income from rendering unskilled labour and state grants. In general the youth claimed that poverty dehumanises them. For example, in an interview on national television a youth explained how he wanted an “All North Star” shoe but his mother just bought him a “North Star”, which embarrassed him in front of his friends. So he needed money and resorted to crime (Special Assignment, 2002).

5.2.2 Anti-social behaviour

Early school leavers (38%) and truancy (22%) among the study sample was the most significant negative behaviour, as both seem to have a negative impact on a healthy and constructive lifestyle. Early school leavers will most likely have less opportunity to compete on the open labour market (See unemployment rate 57%). Gangsterism did not display any particular trend in the community, (See Table 3(2)).

Dagga smoking (20%) and alcohol abuse (20%) are a serious problem in the Helderberg Substructure and, although illegal, these two anti-social behaviours (alcohol abuse & dagga smoking) provide an income to the smuggler or shebeen

owner. This scourge is seen as a vicious circle that even the SAPS and Department of Justice are struggling to eradicate, as it is too deeply rooted within poorer communities. Mothers of youths participating in the interviews, especially those abusing dagga, complained that they had no control over the youth offenders or access to a service, that could successfully address the abuse, (See Table 1).

A declaration signed by South Africa emphasised the fact that drug abuse affects the freedom and development of young people, as quoted by a judge (Van Heerden, 2001:6). The hope is that this will initiate more forceful intervention, as little to no apparent impact is observed from being a signatory to this declaration.

Substance abuse combined with being unemployed (57%), and a need to satisfy addiction (alcohol abuse 20% & dagga smoking 20%), at the time of the interview, contributes to involvement in a wide range of criminal activities, as supported by research, (See Table 4(2)). A guest speaker, Mazibuko, F. (2000) quoted various authors in a paper delivered at the International Social Development Conference in 2000. The authors he quoted endorsed the aforementioned statement that some of the crimes committed by young people are frequently as a result of the need for money to support their drug habits and other addictions.

The Framework - National Drug Master Plan, (Department of Social Development, 1997) also identified young people as generally being at high risk of glue sniffing. Since this study aims to have a holistic approach, the initial assessment should be very thorough in identifying any risk factors that can contribute to criminal activities.

Youth, according to Christian beliefs, tend to be rebellious and need exposure to Christian doctrine to advance healthy discipline in the book (Proverbs in the Holy Bible, 1979). The significant challenge for adults is that youths learn from life and experience, whether it is within the family and/or in the community of origin. In July 2002 a colleague was assaulted in the office by a youth (a client for uncontrollable behaviour) in the presence of the father who tacitly allowed the behaviour by doing nothing and instead accused the officer of gross provocation. This is but one example of inadequate parenting skills. The local office has, since last year, implemented three groups in different communities to address anti-social behaviour. Parenting skills are

taught but unfortunately only (35%) of the referrals for Goodwood Magisterial District attended, (Register Section 2, 2003) and the mothers, not the fathers were in the majority.

Restorative justice identifies both parent/guardian and community as stakeholders in the process of “rehabilitation” of the youth. To empower these role models is therefore of the utmost importance. The importance of this approach is the support the youth is to experience in order to implement and sustain any meaningful change.

Professor Laurens Schlebusch (News Hour, 2002) endorses the contention that the lack of role models, negative peer group association and poor parenting all contribute to experimenting in criminal activity.

However, the behavioural patterns presented in Chapter 4 can be re-shaped. B.F. Skinner argues that a totally new sequence of behaviour can gradually be learned through the process of re-shaping and re-directing (Baron & Byrne, 1981). This view is shared by Prof. Schlebusch, who believes that youths should be taught to resolve conflict without violence. Bad behaviour can be unlearned given the necessary means.

Unfortunately the results of anti-social behaviour, such as unemployment, lack of skills and alcohol/drug dependency, are now a reality and are very difficult to address without money for specialised services as is currently experienced within the Helderberg Substructure.

5.2.3 The nature of crimes and re-offences

According to the Criminal Procedure Act of 1977, offences can most often be regarded as less serious except for those involving infliction of bodily harm. As found in this study sample, the incidence of crimes such as murder, robbery, assault, housebreaking and theft showed no particular pattern but in total, were reported more than that of less serious crimes, such as shoplifting. The high incidence, (See Table 4(2)) of these crimes can be explained as the normal features of a society involved in

a struggle for property and wealth, and a desire to accumulate property as rapidly as possible (Cotgrove, 1978 & Coleman, Butcher & Carson, 1979).

The number of re-offences, (See Table 4(2)) compared to the age groups (Figure 5) are also striking and intervention strategies should be regarded as priority not only in reaction (treatment) to an offence, but proactively (prevention). The 19% (n=14) youth who re-offended is low and the types of re-offences, (See Table 4(2)) indicates all offences to be economically driven in nature. This again is supported by researchers and endorsed in the Literature Review in Chapter 2 that poverty is a contributing factor for crime and legislation is needed to save a child from this cycle, if parents/guardians are not in a position ensure this.

As seen in Table 4(2.1) robbery, increased by (28%) and assault, by (1%) are serious charges and these are the types of incidents that must be the drive force for role players to act and make some valuable contribution to transform a service if needed. The involvement of social workers, let alone other role players is thus a definite need for action, which is, endorsed by Table 2.

Offences such as shoplifting, theft, and housebreaking among 14-year old males could be seen as examples of needing to “show off” and have a sense of belonging, and therefore require appropriate action. More serious offences, such as murder, robbery and assault with the intention to inflict bodily harm, justify imprisonment or referral to an institution. However youths must be exposed to processes (restorative programmes) introduced by the Draft Child Justice Bill (type of legislation needed as referred to in the previous paragraph) that will convince youth that crime does not pay.

5.2.4 Diversion programmes

The legislation of the Child Justice Bill will compel all role players to consider diversion as an option. The study sample had the advantage of being assessed and referred for diversion where applicable. The success of the referral, measured by the number of re-offences committed, (See Table 5(1)) was reported on in Chapter 4.

Diversion as an option for youths in conflict with the law came to the fore especially during 1994. A shift took place from punitive and retributive criminal justice practices towards rehabilitative, educational and restorative options. The Child Justice Bill makes it clear that the wider use of programmes, especially community-based programmes for diversion and alternative sentencing, is needed, thus allowing children to remain in open society. However, the range of diversion options, (See Table 3(3)) highlights a serious limitation and supports a need for development of more programmes, (See Table 2). This could most probably be regarded as a contributing factor for a higher incidence of youth in conflict with the law 73% (n=50) among younger age groups, (See Figure 5).

Presently administrative and staff matters contribute to the lack of proper management of diversion programmes, which is unacceptable in any democracy that proclaims it has the youth's interests at heart. Currently NICRO have four programmes (Youth Empowerment, Mediation, Journey Programme and Family Conferences) although financing these diversion options forces them to request youth to make a contribution. Other options, such as the Drug Information School, SAYSTOP (a programme for young sexual offenders), youth supervision as a sentence option, and community service, are to be managed and facilitated by the probation officers. The appointment of assistant probation officers has not yet been fully implemented and training in managing these different diversion options has not yet been finalised.

5.3 Summary

The researcher discussed all the indicators mentioned in Chapter 3. From this study it became clear that the role players were starting to implement the assessment service as referrals increased. However, the assessment of youths did not always result in diverting the criminal charge or the optimal use of options, such as referral to a diversion programme, Children's Court or the placement of the youth in a parent's/guardian's care while awaiting trial. Nevertheless the most significant outcome was a decrease in those re-offending, 81% (n=60) after being exposed to an assessment programme. This clearly serves as motivation for improvement of more

effective programmes for youth at risk and as stated by Martin & Kettner, quoted in Chapter 2, page 21 there should be a strive to maximise the outcomes in relation to the inputs.

The impact of socio-economic circumstances and anti-social behaviour was unpacked and its consequences on the youth who want the same things as other children is understood. Nevertheless in Britain, as highlighted in the Literature Review, Chapter 2, the provision of structures can at least positively influence the service and criminal involvement of youth.

Hopefully the Child Justice Bill will be legislated this year (2004), that will ensure an overall positive impact on the effectiveness of the assessment programme, by having the necessary structures as well as monitoring and evaluation systems in place. The strengths and weaknesses displayed in Table 1 are thus inter-challenged by one another and are dependent on the enactment of the Child Justice Bill to have the weaknesses reversed to strengths.

CHAPTER 6

RECOMMENDATIONS OR STRATEGIES FOR AN EFFECTIVE IMPLEMENTATION OF THE ASSESSMENT POLICY FOR YOUTHS IN CONFLICT WITH THE LAW

If one believes that youths are adults in the making, whatever is done and spent to establish a sound foundation resulting in responsible adults can be regarded as the best imaginable investment society can make (Cronje, Van der Walt & Retief, 1982).

It is, however, evident that the initial assessment process is the most important stage after the arrest of a youth. This places pressure on the probation officer to intervene, as this should guide the process of restorative justice and ensure a decrease in youths committing crime.

6.1 Policy and legislation

Assessment is legislated in the Criminal Procedure Act of 1977 and supported by the Probation Act of 1991.

As mentioned, it is recommended that all role players, such as the Department of Social Services, the Department of Justice, SAPS and Correctional Services, have overseers at their different provincial head offices, who should be responsible and held accountable for ensuring effective service delivery. At district level, heads of institutions should have the delegated power and according to their performance agreement be obliged to implement and execute the programme and address any serious shortcomings (staff, budget, training, etc.) that hamper the service to especially the youths in conflict with the law.

Acts, policy and regulations should be made available. All staff involved in implementing the policy should have access to important information applicable to the execution of their duties. To illustrate the point, a circular of the SAPS, dated 12 November 2002, instructing officers to respond in a certain way in reaction to the

Probation Services Amendment Act of 2002 has, never to date reached significant role players.

There should be uniformity in the execution of acts and policy guidelines. No two district offices, police stations or magisterial courts operate in the same way, (charging of youth after arrest, time of assessment after arrest, availability of social worker/prosecutor and magistrate) as found in this study, (See Table 1).

Options at arrest, in court before trial and when sentence is passed should be in line with the principles of more empowerment and less restriction, in order to reach both the short and long term goals in the youth's interest.

Probation officers should strive to positively influence the process of assessment at any given time and guard against promoting negativity regarding the immediate action expected from especially overburdened police officers.

6.2 Administrative functioning

6.2.1 Social service delivery

Stand-by service versus fixed hours service should be investigated. There is no uniformity in the delivery of after-hour assessment service. A decision should be made to attract more social workers to the employ of the government. Managers should preferably also consider in-house incentives (flexi-time) as this can motivate more officers to help the dedicated few social workers already involved in after-hour services.

The researcher knows from practical experience that the One Stop Justice Centre can only be established and introduced over a period of time after the implementation of the Child Justice Bill. The working relationship between SAPS officers and officers from the Department of Social Services, whose shifts differ, should to be investigated in the interim.

The assessment process needs to be restorative in nature. Probation officers are using the assessment report format based on principles reflected in the Draft Child Justice Bill. To ensure that this approach has the expected results, i.e. restorative in nature, monitoring and evaluation should be seen as a priority. It is important that training officers apply restorative justice principles that provide opportunities for best practice models. Restructuring the services of government and private welfare organisations, as well as other NGOs, is necessary in order to streamline and prevent the duplication of services.

The probation officer should be in a position to choose from a range of specialised services at the initial assessment interview. As seen in the study sample, (See Table 3.2) alcohol abuse, dagga smoking, truancy, leaving school early, gangsterism and a lack of skills are key issues that were highlighted as contributing to crime. Specialised programmes targeting these issues in the high-risk groups are therefore crucial. These could be implemented in a developmental environment such as the school.

6.2.2 Finance and budget

Cost effectiveness versus effective service delivery should be considered. The incarceration of youths is a costly exercise and needs to be reviewed. Alternatives, such as those programmes highlighted in Chapter 5.2.4 and other services recommended in Chapter 5 on Diversion in the Justice Bill should also be considered.

Presently the financing of services, including the appointment of officials, is still the responsibility of the Head Office (Department of Social Services), whose policy re-grouped service fields, planning and policy which subsequently impacted on communication and support. Therefore re-defining the responsibility and financial accountability of the Probation Services is necessary.

In the interim, the Department of Social Services should challenge constraints and implement corrective measurements regarding overspending in other departments, rather than placing moratoriums on the extension of much needed posts.

6.3 Human resources

Norms and ratios for social workers are lacking, and overburdened and depressed staff are on the increase. A norm, i.e. a number of reports/clients allocated per officer within office hours, is necessary to combat the frustration and unwillingness of officers to avail themselves for the rendering of after-hour services. The norm of 12 probation officer's reports per officer per month was already exceeded in 1992, when the researcher was serving two courts as probation officer. Following serious crises at certain district offices, there are presently discussions underway that will hopefully contribute to maintaining the norm of 12 probation officer's reports and the minimum standards as stated in Chapter 2.5.

Role players should be more diverse with regard to the required language – a very important issue that is not presently adequately addressed. The availability of an interpreter especially at assessment interview relies totally on the social worker and this impacts on the right of the youth to be addressed in a language they understand, (Constitution of RSA, 1996).

Training and re-training should be ongoing, updating all role players on any change and developments that can impact their service.

Child-care officers within secure facilities should not be overlooked. Developing their skill will also ensure efficient and appropriate service delivery to those youths that need to be placed on detention for serious offences.

6.4 Organisational structure

The Draft Child Justice Bill is quite clear on protocol in dealing with youths in conflict with the law, from the time of arrest up to sentencing or the diversion of the case in a court of law. The speedy enactment of the bill is therefore crucial.

The following recommendations regarding organisational structure are important for effective service delivery:

The One Stop Justice Centre in operation after being piloted in the Eastern Province is one of the Department of Justice's visions. The Department of Social Services and other role players support this vision. The establishment of these centres should be a priority since it will ensure a 24-hour service to youths in conflict with the law. Stakeholders can provide services from one central point, making monitoring and liaison more effective. The job performance of managers from all departments should capture all responsibilities and key performance areas.

AARCs provide the initial assessment and there is appreciation for what is being done by role players, the amount of youth assessed after-hours and thus sacrificing their time. Hopefully not only the number of re-offences will drop, but in due time the total number of youth involved in criminal activities. Rendering the assessment service from police stations has its limitations, as experienced in the Helderberg Substructure, in the sense that no specific group of investigating officers is involved and tracing an officer that has other responsibilities increases the time the youth has to endure exposure to the police cells. However in the absence of a One Stop Justice Centre the availability of infra-structure provided at SAPS Centres, see (Duties of Co-ordinator page 35), make them the best alternative setting.

Presiding officers and prosecutors, (See Table 1 on Strengths & Weaknesses) working in juvenile courts need to be sensitive to the needs of youths and the restorative justice approach. To promote these measures the appointment of these staff for set periods and training of their successors is important.

A central resource centre and data bank, (See Table 1 on Strengths & Weaknesses), that provides access to all documents and information in this field of study. This needs to be introduced and made accessible, giving staff at grassroots level the opportunity to develop their knowledge, by introducing it as part of their career development.

Referral programmes have to be readily available to all youths in urban and rural areas. PWOs need to be held accountable for outcome-based programmes, as they are subsidised with public funding.

The Probation Services Amendment Act of 2002 suggests that a new post class (**Assistant Probation Officer**) should facilitate these programmes. This will reduce the pressure on probation officers who, along with running investigations, are forced to initiate and run these programmes.

Secure care is required for youths awaiting trial that cannot be considered for parental/custodial care. Suitable and appropriate placement, as alternative to holding in police cells or imprisonment is needed. Although this did not form part of the study the research introduced the researcher to the high number of youths awaiting trial in prison.

Working agreements between the different departments and significant role players should be in place before the Child Justice Bill is passed. With this study, it became clear that no specific organisation is tasked to deal with youths in conflict with the law in addition or as support to, the diversion programme that NICRO facilitates. Yet (91%) of the subjects interviewed expressed the need for personal development/empowerment, (See Table 2) as they recognised this as important for possible access to the open labour market.

6.5 Monitoring and evaluation

A consistent and structured plan is needed. During this research it became clear, (See Table 1) why this aspect should be earnestly and urgently implemented. It will contribute to objectivity, a transformed service and most of all a restorative approach to youths in conflict with the law.

The appointment of an ombudsman on national and provincial level will further ensure that the discussed principles and those set out in the Child Justice Bill are accounted for. In July 2003 the appointment of an ombudsman was endorsed at a Workshop, convened by the Child Justice Project Team and this enjoys the researchers' fullest support.

CHAPTER 7

CONCLUSION

The assessment process, as defined in this study, is only one of the more serious interventions that can change a youth's perspective on how he or she views life. Mandated in legislation it was necessary to evaluate the interim effort and dedication of those presently involved in assessment. This research hopes to contribute to further research and also initiate campaigns for development where necessary. Social sciences are human orientated and the possibility of or need for change in programmes to address behaviour modification should always be considered a priority.

Campaigns by different disciplines in society – and especially by Minister Omar and his colleagues from the Community Law Centre, UWC, for placing final year law students at juvenile courts – providing seriously lacking legal aid to the defenceless youth, should be acknowledged.

These actions and the instructions of Cabinet resulted in providing assessment services for youth offenders. It should be noted that these services do not excuse youths from all wrongdoing, but provide them with an opportunity to grow and learn to be accountable for their actions. Therefore the incarceration of youths (detention in prison or overnight custody in police cells) is still applicable, although it is to be implemented only as a last resort with the necessary proof of no alternative place to await trial. This sometimes-necessary action is very costly and the exposure to other criminal offenders can hardly be supported. The change in approach from a punitive to a restorative justice approach is strongly supported as a positive and welcome change. However, notable change is dependent on a holistic approach, having all role players involved in a network, providing their special skill or making their own contribution.

The enactment of the Child Justice Bill is therefore of the utmost importance, as it is in line with first world countries, such as Britain, and, more important, the Constitution of our own country. In the study it became clear that youths aspire to

being independent although it sometimes presented as anti-social conduct. Policy should guide services that channel youths' energy in assisting them to conduct healthy lifestyles.

There seem to be support for the Scandinavian approach, since our own country, as well as first world countries, presently promotes a restorative justice approach.

However, it should be noted that only monitoring would ensure that services improve and responsibilities are executed as set out in the Draft Child Justice Bill and related acts. The involvement of other role players is acknowledged, but the Department of Social Services is regarded to be in a more advanced position to drive it and ensure that any action taken is in the best interest of the youth.

From this study it appears that 81% (n=60) of the youth offenders were rehabilitated since only 19% (n=14) re-offended. The services dealing with youth offenders tend to have some shortcomings as unemployment; unskilled labour and poverty shape the socio-economic situation of many of our country's citizens. Poverty among youths in conflict with the law further limits the access to and availability of specialised diversion programmes. Thus a holistic approach should introduce more suitable prevention strategies that address the root of the problem – poverty.

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APPENDIX A

PARTICIPANT INFORMATION AND CONSENT FORM

A REVIEW OF THE AFTER-HOURS ASSESSMENT PROGRAMME IN THE HELDERBERG SUBSTRUCTURE, REGARDING YOUTH IN CONFLICT WITH THE LAW

REFERENCE NUMBER:

STATEMENT BY OR IN LIEU OF PARTICIPANT

I, the undersigned,, in the capacity as the
parent/guardian of, hereby give my consent that
he/she can participate in the survey and confirm that:

1. I am invited to participate in the above-mentioned research project, which is initiated through the University of Stellenbosch.
2. It has been explained to me that the objective of this study is to:
 - a) Describe the service rendered by the Assessment Programme for youth in conflict with the law.
 - b) Provide information that can guide us in implementing more appropriate and effective programmes.
 - c) Campaign, initiate or further network for a service to youth at risk where restoration, preservation of family life and strengthening the community is our mission.
- 2.1 It has been explained that an interview concerning the assessment and service thereafter, where applicable, will be conducted with (parent/guardian) and (youth).
- 2.2 I am aware that this is a once off procedure that will be implemented in 2001/2 at a time convenient to me.
3. It has been explained that all information will be handled confidentially. Information may be used for a thesis, publication in scientific journals and professional presentations.

It has been explained that findings from this study regarding further development of the service to youth at risk/youth in conflict with the law may be brought to the attention of the Department of Social Services.

4. It has been explained that I may have full access to information concerning the youth that has been identified and sampled for this study.

5. I have been informed that I may refuse to participate in this project and that I may stop participating at any stage, and that such refusal or stoppage will not in any way negatively influence future services which (youth) is to receive, for example from the Department of Social Services.
6. The above information has been explained to me by in English/Afrikaans/Xhosa*, a language in which I am proficient. It has been interpreted to my satisfaction by and my questions have been answered satisfactorily.
7. There has been no force placed on me to consent to my participation in this project and I realise that I may stop at any time without penalty.
8. Participation in this project will not lead to additional costs for myself and I will not benefit from it financially.

** Delete if not applicable*

APPENDIX B

INLIGTING- EN TOESTEMMINGSVORM RAKENDE DEELNEMER

’N OORSIG OOR DIE NA-UURSE ASSESSERINGSPROGRAM IN DIE
HELDERBERG SUBSTRUKTUUR, RAKENDE JEUG IN KONFLIK MET DIE
GEREG

VERWYSINGSNOMMER:.....

VERKLARING DEUR OF NAMENS DIE DEELNEMER

Ek, die ondergetekende,, in my hoedanigheid as
ouer/voog van....., verleen hiermee my toestemming dat hy/sy
mag deelneem in die studie en bevestig dat:

1. Ek uitgenooi is om deel te neem in die bovermelde navorsingsprojek,
geïnisieër deur die Universiteit van Stellenbosch.
2. Die volgende doelstellings van die studie is aan my voorgehou:
 - a) Die beskrywing van diens aangebied deur die Assesseringprogram vir
jeug in konflik met die gereg.
 - b) Voorsiening van inligting wat kan lei tot die implementering van meer
gepaste en effektiewe programme.
 - c) Om te demonstreer, te inisieer of verdere te netwerk vir 'n diens aan
jeug, waar restorasie, behoud van gesinslewe en versterking van die
gemeenskap ons missie is.
- 2.1 Daar is verduidelik dat 'n onderhoud rakende die assessering en diens daarna,
waar van toepassing, gevoer sal word met
(ouer/voog) en (jeugdige).
- 2.1 Ek is daarvan bewus dat dit 'n eenmalige prosedure is wat gedurende 2001/2, op 'n
tydstip geleë vir my, geïmplementeer sal word.

3. Daar is aan my verduidelik dat alle inligting as vertroulik behandel sal word. Inligting mag gebruik word vir 'n tesis, publikasie in wetenskaplike vaktydskrifte en professionele aanbiedings.

Daar is verduidelik dat bevindinge van die studie aangaande verdere ontwikkeling van die diens aan alle jeudiges/jeugoortreders onder die aandag van die Departement van Maatskaplike Dienste gebring kan word.

4. Daar is aan my verduidelik dat ek volle toegang sal hê tot inligting rakende die jeugdige wat geïdentifiseer is en tot die steekproef vir die studie verkies is.
5. Ek is daarvan ingelig dat ek mag weier om aan die projek deel te neem en dat ek my te eniger tyd mag onttrek en dat my weiering of onttrekking nie verdere dienslewering, byvoorbeeld deur die Departement van Maatskaplike Dienste, aan (jeugdige) negatief sal beïnvloed nie.
6. Die bostaande inligting is deur aan my verduidelik in Afrikaans/Engels/Xhosa*, 'n taal wat ek magtig is. Dit is voldoende aan my getolk deur en my vrae is bevredigend beantwoord.
7. Daar is geen dwang op my uitgeoefen om in te stem tot deelname in die projek nie en ek besef dat ek my sonder enige strafoplegging mag onttrek.
8. Deelname in die projek sal nie lei tot addisionele koste vir myself nie, en ek sal nie finansiële daardeur bevoordeel word nie.

APPENDIX C

I HEREBY DECLARE THAT I WILL VOLUNTARILY PARTICIPATE IN THE ABOVE-MENTIONED PROJECT.

Signed at.....on.....2001/2

.....
Parent/Guardian assisting youth

.....
Witness

STATEMENT BY RESEARCHER:

I, Dianne J de Bruyn, state that:

1. I have explained the information in this document to
..... (youth) and his/her parent/guardian;
2. I have invited him/her/them* to ask me questions in the case of uncertainty;
3. This interview was held in English/Afrikaans/Xhosa* and that no interpreter
was used/*that this interview was conducted in and
interpreted by

Signed at on 2001/2.

.....
Researcher (Dianne J De Bruyn)

.....
Witness

** Delete if not applicable*

STATEMENT BY INTERPRETER

I,, confirm that:

1. I have translated the content of this document for the participant from to and that I have also translated questions the participant posed to Ms D de Bruyn, as well as her responses;
2. The information I conveyed in such an interpretation was a factually correct representation of what I have been told.

Signed aton 2001/2.

.....
Interpreter

.....
Witness

IMPORTANT INFORMATION

Dear Participant

Thank you very much for your participation in this study. Should you have any questions during the duration of this survey regarding:

1. problems as a result of the research, or
2. information about the project/survey

please contact me at the following telephone number:

Ms Dianne J De Bruyn

APPENDIX D

EK VERKLAAR HIERMEE MY VRYWILLIGE DEELNAME IN DIE BOVERMELDE PROJEK.

Geteken te op2001/2.

.....
Ouer/Voog

.....
Getuie

VERKLARING DEUR NAVORSER:

Ek, Dianne J de Bruyn, verklaar dat:

1. Ek die inligting in die dokument aan (jeugdige)
en sy/haar ouer/voog, verduidelik het;
2. Ek hom/haar/hulle* genooi het om vrae aan my te stel in die geval van enige
onsekerheid;
3. Hierdie onderhoud in Afrikaans/Engels/Xhosa gevoer is en geen tolk gebruik
is nie/*dat hierdie onderhoud gevoer is in en
..... getolk het.

Geteken te op 2001/2.

.....
Navorsers (Dianne J De Bruyn)

* *Skrap waar nie van toepassing*

.....
Getuie

VERKLARING DEUR TOLK

Ek,bevestig dat:

1. Ek die inhoud van die dokument vir die deelnemer van
..... na vertaal het en dat ek ook
die vrae wat deur die deelnemer aan Me D De Bruyn gestel is, asook haar
antwoorde, vertaal het;
2. Die inligting wat ek in die vertolking oorgedra het 'n feitlik korrekte
weergawe was van wat aan my oorgedra is.

Geteken te op2001/2.

.....
Tolk

.....
Getuie

BELANGRIKE INLIGTING

Beste Deelnemer

Baie dankie vir u deelname in hierdie studie. Indien u enige vrae gedurende die duurte van die studie sou hê aangaande:

1. probleme vanweë die navorsing, of
2. inligting omtrent die projek/studie

skakel my gerus by die volgende telefoonnommer:

Me Dianne J De Bruyn

APPENDIX E

The Director/Manager
ACVV
15 De Villiers Street
STRAND
7140

CONSENT TO ACCESS THE CASE/TREATMENT FILES OF YOUR CLIENTS

The undersigned is an enrolled MPhil in Rehabilitation student at the University of Stellenbosch.

As part of her studies the student is doing a review of the rehabilitation process of youth in conflict with the law, assessed at the After-hours Assessment Centre in the Helderberg Substructure. This is a descriptive study from which the Department could form some specific hypothesis to investigate, as this particular study will most probably only provide the researcher with data about the youth and his/her adjustment after exposure to the assessment programme, including referral for a specific service.

Your co-operation is dearly needed, since some of the youths in question reside in your service area and are clients of your organisation. Consent to access the files as indicated below would be appreciated.

A list of the youth considered for the study is attached for your attention.

Your urgent response before would be much appreciated.

Contact no.: 940-7100 (o/h), 933-1308 (a/h)

Thank you for your co-operation.

DIANNE J DE BRUYN
MASTER'S STUDENT
STUDENT NUMBER:.....

MS JA HENDRY
STUDY SUPERVISOR

APPENDIX F

The Director/Manager
Strand Gemeenskapsdienste: Welsyn
15 Onverwacht Street
RUSTHOF
STRAND
7140

CONSENT TO ACCESS THE CASE/TREATMENT FILES OF YOUR CLIENTS

The undersigned is an enrolled MPhil in Rehabilitation student at the University of Stellenbosch.

As part of her studies the student is doing a review of the rehabilitation process of youth in conflict with the law, assessed at the After-hours Assessment Centre in the Helderberg Substructure. This is a descriptive study from which the Department could form some specific hypothesis to investigate, as this particular study will most probably only provide the researcher with data about the youth and his/her adjustment after exposure to the assessment programme, including referral for a specific service.

Your co-operation is dearly needed, since some of the youths in question reside in your service area and are clients of your organisation. Consent to access the files as indicated below would be appreciated.

A list of the youth considered for the study is attached for your attention.

Your urgent response before would be much appreciated.

Contact no.: 940-7100 (o/h), 933-1308 (a/h)

Thank you for your co-operation.

DIANNE J DE BRUYN
MASTER'S STUDENT
STUDENT NUMBER:.....

MS JA HENDRY
STUDY SUPERVISOR

APPENDIX G

The Director/Manager
Child Welfare Society
Drummer Street
SOMERSET WEST
7130

CONSENT TO ACCESS THE CASE/TREATMENT FILES OF YOUR CLIENTS

The undersigned is an enrolled MPhil in Rehabilitation student at the University of Stellenbosch.

As part of her studies the student is doing a review of the rehabilitation process of youth in conflict with the law, assessed at the After-hours Assessment Centre in the Helderberg Substructure. This is a descriptive study from which the Department could form some specific hypothesis to investigate, as this particular study will most probably only provide the researcher with data about the youth and his/her adjustment after exposure to the assessment programme, including referral for a specific service.

Your co-operation is dearly needed, since some of the youths in question reside in your service area and are clients of your organisation. Consent to access the files as indicated below would be appreciated.

A list of the youth considered for the study is attached for your attention.

Your urgent response before would be much appreciated.

Contact no.: 940-7100 (o/h), 933-1308 (a/h)

Thank you for your co-operation.

DIANNE J DE BRUYN
MASTER'S STUDENT
STUDENT NUMBER:.....

MS JA HENDRY
STUDY SUPERVISOR

APPENDIX H

The Office Head: Eerste River
Department of Social Services
PAWC
Private Bag X1
EERSTE RIVER
7400

CONSENT TO ACCESS THE CASE/TREATMENT FILES OF YOUR CLIENTS

The undersigned is an enrolled MPhil in Rehabilitation student at the University of Stellenbosch.

As part of her studies the student is doing a review of the rehabilitation process of youth in conflict with the law, assessed at the After-hours Assessment in the Helderberg Substructure. This is a descriptive study from which the Department could form some specific hypothesis to investigate, as this particular study will most probably only provide the researcher with data about the youth and his/her adjustment after exposure to the assessment programme, including referral for a specific service.

Your co-operation is dearly needed, since some of the youths in question reside in your service area and are clients of your organisation. Consent to access the files as indicated below would be appreciated.

A list of the youth considered for the study is attached for your attention.

Your urgent response before would be much appreciated.

Contact no.: 940-7100 (o/h), 933-1308 (a/h)

Thank you for your co-operation.

DIANNE J DE BRUYN
MASTER'S STUDENT
STUDENT NUMBER:.....

MS JA HENDRY
STUDY SUPERVISOR

APPENDIX I

DATA CODING FORM 1

ID NUMBER:

1	2	3

NAME:

1. Gender:

Male = 1 Female = 2

	4
--	---

2. Date of first referral:

5 D	6 D	7 M	8 M	9 Y	10 Y	11 Y	12 Y

3. Age when first seen at Assessment Centre:

1 = 13

2 = 14

3 = 15

	13
--	----

4. Causative criminal offence when first seen:

(Yes = 1 No = 2)

- a) Murder
- b) Robbery
- c) Housebreaking
- d) Theft
- e) Possession of dagga/drugs
- f) Shoplifting

	14
	15
	16
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	19

5. Identify whether any of the following behaviours were present at the time of **first assessment**:
(Yes = 1 No = 2)

- a) Alcohol
- b) Dagga
- c) Association with gangsters
- d) Victim of sexual abuse
- e) Poor home circumstances

	20
	21
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	24

6. Was the youth considered for NICRO'S Youth School after **first assessment**?

Yes = 1 No = 2

	25
--	----

7. Which Welfare Organisation was the youth referred to after 1st offence?
(Yes = 1 No = 2)

- a) Child & Family Welfare
- b) ACVV
- c) State Department
- d) Safe Line
- e) Other (Specify)
- f) None of the above

	26
	27
	28
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	30
	31

8. After the **first assessment** was:

- i) Children's Court Enquiries opened?

Yes = 1 No = 2

	32
--	----

- ii) Probation Officer's Report requested?

Yes = 1 No = 2

	33
--	----

9. If Probation Officer's Report was requested
what was the sentence?
(Yes = 1 No = 2)

- a) Institutionalisation
b) Supervision by S/Worker
c) Correctional Supervision
d) None of the above

	34
	35
	36
	37

10. Was this youth assessed for repeat offences in
1996 and/or 1997?³

Yes = 1 No = 2

	38
--	----

11. In what year was the youth seen for repeat offences?
(Yes = 1 No = 2 Not applicable = 3)

a) 1996

	39
--	----

b) 1997

	40
--	----

c) Both 1996 & 1997

	41
--	----

12. How many times was the youth assessed in 1996?

- a) once only = 1
b) 2-3 times = 2
c) >3 times = 3
d) not applicable = 4

	42
--	----

13. How many times was the youth assessed in 1997?

- a) once only = 1
b) 2-3 times = 2
c) >3 times = 3
d) not applicable = 4

	43
--	----

³ For Question 11 the Research Proposal was adjusted to include 1998 & 1999 as explained in Chapter 3.

14. (i) Indicate the type of repeat offences committed during 1996.
(Yes = 1 No = 2 Not applicable = 3)

- a) Murder
- b) Robbery
- c) Housebreaking
- d) Theft
- e) Assault
- f) Shoplifting

	44
	45
	46
	47
	48
	49

14. (ii) Indicate the number of times the youth was seen for each of the above.
(1996)

	1x	2x	≥3	N/A	
a) Murder					50
b) Robbery					51
c) Housebreaking					52
d) Theft					53
e) Assault					54
f) Shoplifting					55

(1 = 1) (2 = 2) (>3 = 3) (N/A = 4)

15. (i) Indicate the type of repeat offences committed during 1997.
(Yes = 1 No = 2 Not applicable = 3)

- a) Murder
- b) Robbery
- c) Housebreaking
- d) Theft
- e) Assault
- f) Shoplifting

	56
	57
	58
	59
	60
	61

(ii) Indicate number of times seen for each of above?
(1997)

	1x	2x	≥3	N/A	
a) Murder					62
b) Robbery					63
c) Housebreaking					64
d) Theft					65
e) Assault					66
f) Shoplifting					67

(1 = 1)

(2 = 2)

(>3 = 3)

(N/A = 4)

APPENDIX J

DATA CODING
FORM 2

THANK YOU FOR PARTICIPATING IN THIS STUDY. ALL INFORMATION WILL BE TREATED AS CONFIDENTIAL.

ID no:.....

1	2	3	4	5	6	7	8
D	D	M	M	Y	Y	Y	Y

1. Name and Surname:.....

2. Tick applicable gender:

- a) Male = 1
b) Female = 2

☐
9

3. Present age:
(<14 years = 1 <15 years = 2 <16 years = 3)

☐
10

4. Household managed by:

- a) Single parent = 1
b) Both parents = 2
c) Other = 3

☐
11

5. What is your position among the children in the household?

- a) Eldest = 1
b) Second = 2
c) Middle = 3
d) Youngest = 4

☐
12

6. (i) Who do you live with?
- | | | | |
|----|---------------------|-----|------------------------------------|
| a) | Own family | = 1 | <input type="text"/> ₁₃ |
| b) | Other family/people | = 2 | |
- (ii) If (b), is it because of:
- | | | | |
|----|----------------------|-----|------------------------------------|
| a) | Parents deceased | = 1 | <input type="text"/> ₁₄ |
| b) | Parents unknown | = 2 | |
| c) | Private arrangement? | = 3 | |
7. Finance?
- | | | | |
|----|------------------------------|-----|------------------------------------|
| a) | One parent/guardian employed | = 1 | <input type="text"/> ₁₅ |
| b) | Both employed | = 2 | |
| c) | Both unemployed | = 3 | |
8. (i) Which of the following positions refer to you?
- | | | | |
|----|--------------------------------|-----|------------------------------------|
| a) | Schooling | = 1 | <input type="text"/> ₁₆ |
| b) | Early school leaver/unemployed | = 2 | |
| c) | Casually employed | = 3 | |
- (ii) If schooling, indicate the school:
- | | | | |
|----|------------------|-----|------------------------------------|
| a) | Primary School | = 1 | <input type="text"/> ₁₇ |
| b) | Secondary School | = 2 | |
- (iii) If not schooling, indicate age when you left school:
- | | | | |
|----|-----------|-----|------------------------------------|
| a) | <14 years | = 1 | <input type="text"/> ₁₈ |
| b) | <15 years | = 2 | |
| c) | <16 years | = 3 | |

- (iv) If you chose (b) or (c) in question 8(i) what of the following contributed to you leaving school?

(Yes = 1 No = 2 Not applicable = 3)

- a) Playing truant quite often
b) Gang involvement
c) Adaptation class
d) Other (specify)

	19
	20
	21
	22

9. Give an indication of your absence from school:

(>3 days = 1 <3 days = 2)

- a) 1st quarter >3 days
1st quarter <3 days
b) 2nd quarter >3 days
2nd quarter <3 days
c) 3rd quarter >3 days
3rd quarter <3 days

	23
--	----

	24
--	----

	25
--	----

10. (i) Do you attend aftercare?

Yes = 1 No = 2

	26
--	----

- (ii) If yes, where? = 1

If no, why? = 2

	27
--	----

- 11 (i) Is your family a client of:

- a) Child Welfare = 1
b) ACVV = 2
c) State Department = 3
d) None = 4
e) Other? = 5

	28
--	----

12. What services have you received from welfare organisations since 1996?
(Yes = 1 No = 2)

a)	Family matters	<input type="checkbox"/>	29
b)	Playing truant	<input type="checkbox"/>	30
c)	Smoking dagga	<input type="checkbox"/>	31
d)	Drinking alcohol	<input type="checkbox"/>	32
e)	Sleeping away from home	<input type="checkbox"/>	33
f)	Being expelled from school	<input type="checkbox"/>	34
g)	Other (Specify).....	<input type="checkbox"/>	35

13. If the family/youth are not clients of a welfare organisation, and experience any of the above problems, whom do you turn to for advice/help?
(Yes = 1 No = 2)

a)	Family member	<input type="checkbox"/>	36
b)	Neighbour/Friend	<input type="checkbox"/>	37
c)	School	<input type="checkbox"/>	38
d)	Church	<input type="checkbox"/>	39
e)	Other (Specify)	<input type="checkbox"/>	40

14. If receiving a service from a welfare organisation, how often do you have contact with this organisation?

a)	Once a week	= 1	
b)	Once a month	= 2	
c)	Once a quarter.....	= 3	
d)	Other (Specify).....	= 4	<input type="checkbox"/> 41

15. Does the service include the following:
(Yes = 1 No = 2)

a)	Groups with other kids	<input type="checkbox"/>	42
b)	Family group sessions	<input type="checkbox"/>	43
c)	Holiday camps	<input type="checkbox"/>	44
d)	Individual sessions	<input type="checkbox"/>	45
e)	Home visits?	<input type="checkbox"/>	46

16. (i) Is there a change in the frequency of contact?
a) Yes = 1
b) No = 2 47

(ii) If yes, what is the frequency?
a) Once a week = 1
b) Once a month = 2
c) Once a quarter = 3 48
d) Other (Specify) = 4

17. (i) Has your child ever been referred to a place of safety?
Yes = 1
No = 2 49

(ii) If yes, for what period of time?
a) <1 month = 1
b) >1 month = 2
c) >2 months = 3 50

18. The child's leisure-time (weekends/holidays) is spent:
(Yes = 1 No = 2)

a) At home	<input type="text"/>	51
b) Doing casual work	<input type="text"/>	52
c) Camping	<input type="text"/>	53
d) Away from home with friends	<input type="text"/>	54
e) Playing games at shop	<input type="text"/>	55
f) Other (Specify).....	<input type="text"/>	56

19. Would you like to attend any of the following programmes to develop your knowledge about:

(Yes = 1 No = 2)

a)	life skills	<input type="checkbox"/>	57
b)	group pressure	<input type="checkbox"/>	58
c)	conflict resolution.....	<input type="checkbox"/>	59
d)	drug/alcohol abuse	<input type="checkbox"/>	60
e)	leisure activities	<input type="checkbox"/>	61
f)	aids programmes	<input type="checkbox"/>	62
g)	entrepreneurship (making wire cars; drawing etc.)	<input type="checkbox"/>	63
h)	educational trips.....	<input type="checkbox"/>	64

20. Does your school run the following prevention/information programmes?

(Yes = 1 No = 2)

a)	glue/dagga.....	<input type="checkbox"/>	65
b)	alcohol abuse	<input type="checkbox"/>	66
c)	child abuse	<input type="checkbox"/>	67
d)	gangsterism	<input type="checkbox"/>	68
e)	conflict resolution.....	<input type="checkbox"/>	69
f)	group pressure	<input type="checkbox"/>	70
g)	none	<input type="checkbox"/>	71
h)	other (Specify)	<input type="checkbox"/>	72

21. (i) Do you smoke dagga?

Yes = 1

No = 2

☐ 73

- (ii) If yes, do you smoke it:

a) alone <3 times per week = 1

b) alone >3 times per week = 2

c) in group <3 times per week = 3

d) in group >3 times per week = 4

☐ 74

22. At school, can one buy dagga?

Yes = 1

No = 2

☐ 75

23. (i) Do you use any alcohol?
 Yes = 1
 No = 2 ☐ 76

23. (ii) If yes, do you normally drink:
 a) alone <3 times per week =1
 b) alone >3 times per week =2
 c) in group <3 times per week =3
 d) in group >3 times per week =4 ☐ 77

24. Do you belong to a gang?
 Yes = 1
 No = 2 ☐ 78

25. Do your friends belong to a gang?
 Yes = 1
 No = 2 ☐ 79

26. Have some of your friends done crime before?
 Yes = 1
 No = 2 ☐ 80

27. After services rendered by Welfare, have there subsequently been:
 a) No new charges = 1
 b) New charges? = 2 ☐ 81

28. Have you attended NICRO's Youth Programme before?
 Yes = 1
 No = 2 ☐ 82

29. Have some of your friends attended NICRO's Youth Programme before?

Yes = 1

No = 2

	83
--	----

30. What sport/cultural activity do you participate in?

Yes = 1 No = 2

- a) Soccer
- b) Rugby
- c) Cricket
- d) Hockey
- e) Tennis
- f) Bird racing
- g) Music
- h) Drama
- i) Other
- j) None (Explain)

.....

	84
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THANK YOU

APPENDIX K

DATAKODERINGSVORM 2

BAIE DANKIE VIR U DEELNAME AAN HIERDIE STUDIE. ALLE INLIGTING SAL AS
VERTROUOLIK HANTEER WORD.

ID No.:.....

1	2	3	4	5	6	7	8
D	D	M	M	J	J	J	J

1. Naam en Van:

2. Merk geslag: a) Manlik = 1
b) Vroulik = 2

9

3. Huidige ouderdom:
<14 jaar = 1
<15 jaar = 2
<16 jaar = 3

10

4. Huishouding word beheer deur:
a) Enkelouer = 1
b) Beide ouers = 2
c) Ander = 3

11

5. Wat is u posisie in die gesin?
a) Oudste = 1
b) Tweede = 2
c) Middel = 3
d) Jongste = 4

12

6. (i) By wie woon u?
- | | | |
|--------------------------|-----------|-------------------------|
| a) Eie familie | = 1 | |
| b) Ander familie/persone | = 2 | <input type="text"/> 13 |

- (ii) Indien (b), is dit as gevolg van:
- | | | |
|------------------------|-----------|-------------------------|
| a) Ouers oorlede | = 1 | |
| b) Ouers onbekend | = 2 | |
| c) 'n Private reëling? | = 3 | <input type="text"/> 14 |

7. Finansies?:
- | | | |
|---------------------------|-----------|-------------------------|
| a) Een ouer/voog werksaam | = 1 | |
| b) Beide werksaam | = 2 | |
| c) Beide werkloos | = 3 | <input type="text"/> 15 |

8. (i) Watter van die volgende het betrekking op u?
- | | | |
|-----------------------------|-----------|-------------------------|
| a) Skoolgaande | = 1 | |
| b) Nie-skoolgaande/werkloos | = 2 | |
| c) Tydelike werk | = 3 | <input type="text"/> 16 |

- (ii) Indien skoolgaande, gee aanduiding van skoolvlak.
- | | | |
|--------------------|-----------|-------------------------|
| a) Primêre Skool | = 1 | |
| b) Sekondêre Skool | = 2 | <input type="text"/> 17 |

- (iii) Indien nie skoolgaande nie, wat was u ouderdom met skoolverlating?
- | | | |
|-------------|-----------|-------------------------|
| a) <14 jaar | = 1 | |
| b) <15 jaar | = 2 | |
| c) <16 jaar | = 3 | <input type="text"/> 18 |

- (iv) Indien u b) of c) gekies het by vraag 8(i), watter van die volgende faktore het 'n bydrae gelewer?
- | | | |
|------------------------------|----------------------|----|
| a) Stokkiesdraaiery | <input type="text"/> | 19 |
| b) Bende-betrokkenheid | <input type="text"/> | 20 |
| c) Aanpassingsklas | <input type="text"/> | 21 |
| d) Ander (Spesifiseer) | <input type="text"/> | 22 |
9. Gee 'n aanduiding van afwesigheid van skool.
- a) 1ste kwartaal >3 dae = 1
1ste kwartaal <3 dae = 2
- 23
- b) 2de kwartaal >3 dae = 1
2de kwartaal <3 dae = 2
- 24
- c) 3de kwartaal >3 dae = 1
3de kwartaal <3 dae = 2
- 25
10. (i) Woon u 'n nasorgsentrum by?
- Ja = 1
Nee = 2
- 26
- (ii) Indien ja, waar? = 1
Indien nee, hoekom? = 2
- 27
11. Is u gesin 'n kliënt van:
- | | | |
|-------------------------|----------|-------------------------|
| a) Kinder- en Gesinsorg | =1 | |
| b) ACVV | =2 | |
| c) Staatsdepartement | =3 | |
| d) Geen | =4 | |
| e) Ander (Spesifiseer) | =5 | <input type="text"/> 28 |

12. Watter tipe diens het u ontvang van welsynsorganisasies sedert 1996?

Ja = 1 Nee = 2

- | | | | | |
|----|------------------------|-------|--------------------------|----|
| a) | Familie-aangeleenthede | | <input type="checkbox"/> | 29 |
| b) | Stokkiesdraaiery | | <input type="checkbox"/> | 30 |
| c) | Rook van dagga | | <input type="checkbox"/> | 31 |
| d) | Alkohol | | <input type="checkbox"/> | 32 |
| e) | Wegslaan van woning | | <input type="checkbox"/> | 33 |
| f) | Geskors van skool | | <input type="checkbox"/> | 34 |
| g) | Ander (Spesifiseer) | | <input type="checkbox"/> | 35 |

13. Indien u gesin/jeugdige nie kliënte van 'n welsynsorganisasie is nie, maar bovermelde ervaar, na wie sal u gaan vir advies/hulp?

Ja = 1 Nee = 2

- | | | | | |
|----|---------------------|-------|--------------------------|----|
| a) | Familielid | | <input type="checkbox"/> | 36 |
| b) | Bure/Vriend | | <input type="checkbox"/> | 37 |
| c) | Skool | | <input type="checkbox"/> | 38 |
| d) | Kerk | | <input type="checkbox"/> | 39 |
| e) | Ander (Spesifiseer) | | <input type="checkbox"/> | 40 |

14. Indien u diens van 'n Welsynsorganisasie ontvang, hoe gereeld het u kontak?

- | | | | |
|----|-----------------------|-------|-----------------------------|
| a) | Een keer per week | | |
| b) | Een keer per maand | | |
| c) | Een keer per kwartaal | | |
| d) | Ander (Spesifiseer) | | <input type="checkbox"/> 41 |

15. Sluit die diens die volgende in:

Ja = 1 Nee = 2)

- | | | | | |
|----|--------------------------|-------|--------------------------|----|
| a) | Groepe met ander kinders | | <input type="checkbox"/> | 42 |
| b) | Familie groepsessies | | <input type="checkbox"/> | 43 |
| c) | Vakansiekampe | | <input type="checkbox"/> | 44 |
| d) | Individuele sessies | | <input type="checkbox"/> | 45 |
| e) | Tuisbesoeke? | | <input type="checkbox"/> | 46 |

16. (i) Is daar 'n verandering in die aantal kontakte?

Ja = 1

Nee = 2

 47

(ii) Indien ja, wat is die huidige frekwensie?

a) Een keer per week

b) Een keer per maand

c) Een keer per kwartaal

d) Ander (Spesifiseer)

 48

17. (i) Is u kind ooit na 'n Plek van Veiligheid verwys?

Ja = 1

Nee = 2

 49

(ii) Indien ja, vir watter periode?

a) <1 maand = 1

b) >1 maand = 2

c) >2 maande = 3

 50

18. Die kind se vryetyd (naweke/vakansies) word bestee:

Ja = 1 Nee = 2

a) Tuis

b) Aan peuselwerkies

c) Aan kampering

d) Weg van woning met vriende

e) Aan masjienspeletjies by winkel

f) Ander (Spesifiseer)

	51
	52
	53
	54
	55
	56

19. Sal u graag die volgende programme vir die ontwikkeling van u kennis wil bywoon?

Ja = 1 Nee = 2

- | | | | | |
|----|--|-------|--------------------------|----|
| a) | Lewensvaardighede | | <input type="checkbox"/> | 57 |
| b) | Groepsdruk | | <input type="checkbox"/> | 58 |
| c) | Konflikhantering | | <input type="checkbox"/> | 59 |
| d) | Dwelm-/Alkoholmisbruik | | <input type="checkbox"/> | 60 |
| e) | Vryetydsbesteding | | <input type="checkbox"/> | 61 |
| f) | Vigsprogramme | | <input type="checkbox"/> | 62 |
| g) | Entrepreneurskap (draadkarre maak; skets ens.) | | <input type="checkbox"/> | 63 |
| h) | Opvoedkundige uitstappies | | <input type="checkbox"/> | 64 |

20. Bied u skool enige van die volgende voorkomings-/inligtingsprogramme aan?

Ja = 1 Nee = 2

- | | | | | |
|----|----------------------------------|-------|--------------------------|----|
| a) | Gom/Dagga | | <input type="checkbox"/> | 65 |
| b) | Alkoholmisbruik | | <input type="checkbox"/> | 66 |
| c) | Kinderverwaarlosing/-molestering | | <input type="checkbox"/> | 67 |
| d) | Bendegeweld | | <input type="checkbox"/> | 68 |
| e) | Konflikhantering | | <input type="checkbox"/> | 69 |
| f) | Groepsdruk | | <input type="checkbox"/> | 70 |
| g) | Ander (Spesifiseer) | | <input type="checkbox"/> | 71 |

21. (i) Rook u dagga?

Ja = 1

Nee = 2

☐ 72

(ii) Indien ja, hoe is die gebruik?

a) alleen en <3 per week = 1

alleen en >3 per week = 2

☐ 73

b) in groep en <3 per week = 1

in groep en >3 per week = 2

☐ 74

22. Kan u dagga by u skool koop?

Ja = 1

Nee = 2

75

23. (i) Gebruik u enige alkohol?

Ja = 1

Nee = 2

76

(ii) Indien ja, hoe gebruik u dit?

a) alleen en <3 per week = 1

alleen en >3 per week = 2

77

b) in groep en <3 per week = 1

in groep en >3 per week = 2

78

24. Behoort u aan 'n bende?

Ja = 1

Nee = 2

79

25. Behoort u vriende aan 'n bende?

Ja = 1

Nee = 2

80

26. Weet u of van u vriende al vantevore 'n misdaad gepleeg het?

Ja = 1

Nee = 2

81

27. Sedert intervensie van 'n welsynsorganisasie, wat is die resultaat?
a) Geen nuwe klagtes = 1
b) Nuwe klagtes = 2 82
28. Het u al vantevore die NIMRO se Jeugskool bygewoon?
Ja = 1
Nee = 2 83
29. Weet u of van u vriende die NIMRO se Jeugskool bygewoon het?
Ja = 1
Nee = 2 84
30. Aan watter sport/kulturele aktiwiteite neem u deel?
Ja = 1 Nee = 2
- | | | | | |
|----|--------------------|-------|----------------------|----|
| a) | Sokker | | <input type="text"/> | 85 |
| b) | Rugby | | <input type="text"/> | 86 |
| c) | Krieket | | <input type="text"/> | 87 |
| d) | Hokkie | | <input type="text"/> | 88 |
| e) | Tennis | | <input type="text"/> | 89 |
| f) | Duiwe-wedrenne | | <input type="text"/> | 90 |
| g) | Musiek | | <input type="text"/> | 91 |
| h) | Drama | | <input type="text"/> | 92 |
| i) | Ander | | <input type="text"/> | 93 |
| j) | Geen (Verduidelik) | | <input type="text"/> | 94 |

DANKIE